

Kerala High Court

Annie U.J vs Kerala State Electricity Board on 15 September, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 3412 of 2009(F)

1. ANNIE U.J.,
... Petitioner
2. GIRIJA DEVI M.S., ASSISTANT ENGINEER I

Vs

1. KERALA STATE ELECTRICITY BOARD,
... Respondent
2. THE CHIEF ENGINEER (HRM),

For Petitioner :SRI.S.RAMESH BABU

For Respondent :SRI. ASOK M.CHERIYAN, SC, KSEB

The Hon'ble MR. Justice T.R.RAMACHANDRAN NAIR

Dated :15/09/2010

O R D E R

T.R. Ramachandran Nair, J.

W.P.(C) No.3412 of 2009-F

Dated this the 15th day of September, 2010.

JUDGMENT

The petitioners are presently working as Assistant Engineers (Civil) in the first respondent Board. The main relief sought for in the writ petition is to quash Ext.P11 and to issue appropriate direction commanding the respondents to review, revise and reorder the appointments ordered to the 10% quota in the category of Assistant Engineer (Civil) based on Ext.P6 final seniority list expeditiously and in any event within a time to be fixed by this Court.

2. The petitioners were appointed through the Public Service Commission as Sub Engineers (Civil) as per advice memo dated 19.10.1994. Regarding the further promotion to the post of Assistant Engineer (Civil), the same has to be filled up by direct recruitment for 50% and out of the 50% reserved for direct recruitment, 40% is filled up from open market and the remaining 10% is reserved for Engineering Graduates.

3. The Board was considering the length of service of the Engineering graduates as criteria for the purpose of appointment under the 10% quota. The said issue was finally resolved by Ext.P3 judgment of this Court, wherein this Court held that it is only the date of effective advice which has to be taken into consideration for the purpose of fixation of seniority and not the actual date of joining duty. The said principle was correctly followed by the Board and subsequent judgments have been produced as Exts.P4 and P5.

4. Finally, by Ext.P5 judgment there was a direction to recast the seniority list also and the same was implemented by the Board as per Ext.P6. Going by Ext.P6, the petitioners are serial Nos. 9 and 13. The same is a revised seniority list of Assistant Engineers (Civil) appointed in the 10% in service quota from the cadre of Sub Engineer (Civil).

5. The petitioners thereafter claimed promotion as Assistant Executive Engineer (Civil) and by Ext.P10 judgment, this Court directed the Board to consider and pass orders on the representation in the light of the legal position declared by this Court. In compliance of the directions issued in Ext.P10 judgment, the Board has issued Ext.P11 order. But the petitioners' complaint is that their request for promotion has not been considered for flimsy reasons.

6. A reading of Ext.P11 shows that the Board was of the view that they are not in a position to promote the petitioners in the cadre of Assistant Executive Engineer (Civil) and assign seniority of the same category before the review of promotion of Assistant Engineer (Civil), as per the judgment in W.P.(C) No.8236/2008 is completed.

7. Learned counsel for the petitioners submitted that there is no justification for denying the due promotion to the petitioners in the cadre of Assistant Executive Engineer (Civil), since the matter has to go by the seniority list Ext.P6 and a proper revision of the appointments ordered, has to be made in terms of the said seniority list.

8. Heard learned Standing Counsel for the Board.

9. It is pointed out that the process of reviewing the promotions are under way, as indicated in the counter affidavit and this will be completed within a reasonable time.

10. In para 10 of the counter affidavit, it is pointed out that steps are being taken to revert the persons holding the post of Assistant Executive Engineer (Civil) as per Ext.P6 list. When that is done, none of those who are juniors to the petitioners will be in the cadre of Assistant Executive Engineers. Petitioners would be promoted as Assistant Executive Engineer (Civil) as and when their turn arises in accordance with their seniority as Assistant Engineer (Civil).

11. The above exercise has to be expedited to redress the grievance of the petitioners. In that view of the matter, there will be a direction to the respondents to complete the process of review of promotions and grant the consequential benefits to the petitioners, after considering their claims, and in accordance with their seniority and turn for promotion, within a period of three months from today.

The writ petition is disposed of as above. No costs.

(T.R. Ramachandran Nair, Judge.) kav/