
(2012) 03 KL CK 0213

High Court Of Kerala

Case No: WP (C) .No. 2062 of 2012 (G)

Azheekal Fishing
Harbour and General
Workers of Fish
Landing Centre and
Others.

APPELLANT

Vs

Harbour Committee For
Monitoring The Working
of Kayamkulam Fishing
Harbour and Others

RESPONDENT

Date of Decision: March 19, 2012

Hon'ble Judges: P.N.Ravindran, J

Bench: Single Bench

Advocate: R. Lakshmi Narayan and Smt. R. Ranjini, for the Appellant; Siju Kamalasanan, for R8 and R10, Smt. Bindu George, Sri. G. Gopakumar, Govt. Pleader for R1, 2, 4, 5, 6 and 11 and Sri. Koshy George, SC, Khlwbb, for R 12, for the Respondent

Judgement

Justice P.N. Ravindran

1. The petitioners in this writ petition are trade unions representing head load workers who were formerly doing loading and unloading works at Ayiramthengu Fish Landing Centre and adjoining areas. After the Kayamkulam Fishing Harbour at Azheekal was commissioned and it became fully operational, disputes arose between various sections of workers regarding allocation of work. That led to conciliation talks being held by the Revenue Divisional Officer, Kollam which culminated in Ext.P2 minutes dated 9.2.2011. The petitioners and others thereupon filed WP(C) Nos.33621 of 2010, 3678, 6708 & 7242 of 2011 in this Court challenging the said decision. By Ext.P3 judgment delivered on 22.8.2011 this Court disposed of the said writ petition with the following directions.

3. The, minutes produced and marked as Ext.P6 in WP(C)No. 33621 of 2010 is attacked inter alia on the ground that the Revenue divisional Officer had no jurisdiction to decide

on the number of workers who are entitled to do the loading and unloading work. A reading of Ext.P6 minutes produced in indicates that it was the representatives of 12 trade unions who decided the dispute. They agreed among themselves that they should submit returns before the Assistant Labour Officer and thereafter the Assistant Labour Officer should conduct an enquiry regarding the full details of the employees. It was also decided that the Executive Engineer of the Harbour Engineering Department should submit a report to the District Labour Officer as regards the total number of workers who are required to work at the Fish landing centre. It was agreed till such time the arrangement evidenced by Ext.P6 shall be implemented. However it is evident from Ext.P6 minutes that the District Labour Officer concerned had suggested that workers of each union should be given employment on a prorata basis having regard to the strength of that union and for that purpose an enquiry should be held. The minutes however disclose that, that aspect was not explored by the Revenue Divisional Officer or the members of the various trade unions. In such circumstances, I am of the opinion that the District Labour Officer or the members of the various trade unions. In such circumstances, I am of the opinion that the District Labour Officer, Kollam should hold a conciliation conference for the purpose of deciding on the number of employees belonging to the various union who should be given employment opportunities in the Kaymakulam Fishing Harbour at Axheekkal.

I accordingly dispose of these writ petitions with a direction that in the event of the petitioners filing an appropriate representation before the District Labour Officer, Kollam settling out their claims and contentions, the District Labour officer shall hold a conciliation conference with notice to all the concerned trade unions including the trade unions who are signatories to Ext.P6 minutes in WP(C) No. 33621 of 2010 and arrive at a decision regarding the manner in which the loading and unloading work in the Kaymakulam Fishing Harbour at Azheekkal should be distributed among the members of the various trade unions. A decision in that regard shall be taken expeditiously and in any event within two months from the date on which the petitioners move the District Labour Officer, Kollam as aforesaid. Until such time, the existing arrangement shall continue.

Pursuant to the said direction, the District Labour Officer, Kollam issued Ext.P4 order dated 30.12.2011 and Ext.P5 order dated 4.1.2012 wherein after entering a finding in favour of the petitioners herein he directed the Harbour Management Committee constituted as per Ext.P1 Government order dated 17.2.2007 to conduct an enquiry with the assistance of the Assistant Labour Officer, Karunagappilly to identify the workers, group them into pools and allot work to them on rotation basis. In this writ petition the petitioners challenge the said direction issued by the Assistant Labour Officer on the ground that the Harbour Management Committee constituted as per Ext.P1 order has nothing do with the functioning of the harbour and was constituted to monitor the progress in the construction of the Fishing Harbour. Alternatively the petitioners seek a direction to the said committee to implement Exts.P4 and P5 orders. When this writ petition came up

for hearing today, the learned Government Pleader appearing for official respondents and Sri.Siju Kamalasan, learned counsel appearing for respondents 8 and 10 submitted that challenging Exts.P4 and P5 orders, the office bearers of some other trade unions have filed an appeal before the Regional Joint Labour Commissioner, Kollam and that the said appeal is pending. A copy of the memorandum of appeal was also made available to me for perusal. The memorandum of appeal discloses that the General Secretary of Kayamkulam Fishing Harbour Workers Federation (AITUC), Azheekkal, the President of Alappad Grama Panchayath Harbour Workers Union (UTUC), Azheekkal, and the President of the Kollam Jilla Port Mazdur Sangham (BMS) have filed an appeal challenging Exts.P4 and P5 orders passed by the District Labour Officer, Kollam. Petitioners 1 and 3 are parties to the said appeal. In such circumstances I am of the opinion that the petitioners and party respondents who are not parties to the appeal should get themselves impleaded in the said appeal and put forward their contentions before the appellate authority. I am also of the opinion that if any of the parties to the writ petition are aggrieved by Ext.P4 and P5 orders they should also file appeals before the appellate authority. Notwithstanding the fact that the period of limitation prescribed for filing an appeal has expired, in the event of the petitioners filing an appeal before the Regional Joint Labour Commissioner, within two weeks from today the Regional Joint Labour Commissioner, Kollam should entertain the appeal, issue notice to all the parties who are interested and afford them an opportunity of being heard and dispose of the appeal along with the appeal already pending before him. I accordingly dispose of the writ petition with a direction that in the event of the parties to the writ petition filing an appeal within two weeks from today challenging Exts.P4 and P5 orders, the Regional Joint Labour Commissioner, Kollam shall consider the said appeal hear the parties and dispose of the same along with the appeal already pending before him. It will be open to the parties to put forward all their contentions including the contention that the Harbour Management Committee has nothing to do with the engagement of head load workers and that the District Labour Officer is the authority competent to issue appropriate directions in that regard. In the event of the petitioners filing an appeal as directed above, the appeal shall be disposed of within an outer limit of six weeks from the date on which the appeal is presented before the Appellate Authority.