



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

WA NO. 1445 OF 2024

AGAINST THE JUDGMENT DATED 28.02.2024 IN WP(C) NO.2357 OF
2024 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 3 IN WP(C) :

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, GENERAL
ADMINISTRATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 2 THE ADDITIONAL CHIEF SECRETARY
FINANCE (PRC-C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 3 THE PRINCIPAL SECRETARY
DEPARTMENT OF AGRICULTURE (ANIMAL HUSBANDRY & DAIRY
DEVELOPMENT), SECRETARIAT, THIRUVANANTHAPURAM, KERALA,
PIN - 695001

ADV. VINITHA.B, GOVERNMENT PLEADER

RESPONDENTS/PETITIONER AND RESPONDENTS 4 AND 5 IN WP(C) :

- 1 DR JYOTHISH KUMAR V
AGED 57 YEARS
SON OF P VIJAYAKUMAR, DEPUTY GENERAL MANAGER, KERALA
LIVESTOCK DEVELOPMENT BOARD, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, KERALA RESIDING AT 8A, SIVAJI
PEARL APARTMENT, E STREET, JAWAHAR NAGAR, KOWDIAR,



SASTHAMANGALAM P O, THIRUVANANTHAPURAM, KERALA, PIN -
695010

- 2 KERALA LIVESTOCK DEVELOPMENT BOARD
REPRESENTED BY ITS MANAGING DIRECTOR, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, KERALA, PIN - 695004
- 3 THE CHAIRMAN
KERALA LIVESTOCK DEVELOPMENT BOARD, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, KERALA, PIN - 695004

BY ADVS.

REKHA VASUDEVAN -R1

SOYA D.C(K/200/2003) -R1

MAHESH C.R.(K/204/2006) -R1

ELIZABETH V.JOSEPH(K/1385/2020) -R1

Millu Dandapani - R2 and R3

THIS WRIT APPEAL WAS FINALLY HEARD ON 28.01.2025, ALONG WITH
WA.1792/2024, 1478/2024 AND CONNECTED CASES, THE COURT ON 7.2.2025
PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

WA NO. 1478 OF 2024

AGAINST THE JUDGMENT DATED 11.04.2024 IN WP(C) NO.11951 OF
2024 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 3 IN WP(C) :

- 1 STATE OF KERALA
REP. BY THE CHIEF SECRETARY, GENERAL ADMINISTRATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 2 THE ADDITIONAL CHIEF SECRETARY
FINANCE (PRC-C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM., PIN - 695001
- 3 THE PRINCIPAL SECRETARY
DEPARTMENT OF AGRICULTURE, (ANIMAL HUSBANDRY & DAIRY
DEVELOPMENT), SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001

ADV.VINITHA.B, GOVERNMENT PLEADER

RESPONDENTS/PETITIONERS AND RESPONDENTS 4 AND 5 IN WP(C) :

- 1 JESSY JOSEPH
AGED 57 YEARS
WIFE OF GEORGE K JOHN, MANAGER (FODDER DEVELOPMENT)
SEED UNIT, K.L.D BOARD, DHONI FARM, DHONI P.O.,
PALAKKAD, KERALA 678 009, RESIDING AT KAVALAKKATT
HOUSE, KRISHNA GARDEN, KALLEKULANGARA P.O., PALAKKAD,



KERALA., PIN - 678009

- 2 DIVAKARAN PILLAI K
 AGED 57 YEARS
 SON OF KRISHNANKUTTY (LATE), ASSISTANT MANAGER (A/A),
 K.L.D BOARD, DHONI FARM, DHONI P.O., PALAKKAD, KERALA
 678 009. RESIDING AT MITHUN NIVAS, EZHAVA SOUTH,
 CHETTIKULANGARA.P.O., MAVELIKKARA, ALAPPUZHA, KERALA,
 PIN - 690106
- 3 KERALA LIVESTOCK DEVELOPMENT BOARD
 REPRESENTED BY ITS MANAGING DIRECTOR, GOKULAM, PATTOM,
 THIRUVANANTHAPURAM, KERALA., PIN - 695004
- 4 THE CHAIRMAN
 KERALA LIVESTOCK DEVELOPMENT BOARD, GOKULAM, PATTOM,
 THIRUVANANTHAPURAM, KERALA, PIN - 695004

REKHA VASUDEVAN
SOYA D.C(K/200/2003)
MAHESH C.R. (K/204/2006)
ELIZABETH V.JOSEPH(K/1385/2020)

BY ADV Millu Dandapani - R3 AND R4

THIS WRIT APPEAL WAS FINALLY HEARD ON 28.01.2025, ALONG WITH
WA.1445/2024 AND CONNECTED CASES, THE COURT ON 7.2.2025 PASSED
THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

WA NO. 1790 OF 2024

AGAINST THE ORDER DATED 27.03.2024 IN WP(C) NO.10816 OF 2024
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 3 IN WP(C) :

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, GENERAL
ADMINISTRATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 2 THE ADDITIONAL CHIEF SECRETARY
FINANCE (PRC-C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 3 THE PRINCIPAL SECRETARY,
DEPARTMENT OF AGRICULTURE (ANIMAL HUSBANDRY & DAIRY
DEVELOPMENT), SECRETARIAT, THIRUVANANTHAPURAM, KERALA,
PIN - 695001

ADV.VINITHA.B, GOVERNMENT PLEADER

RESPONDENTS/PETITIONERS AND RESPONDENTS 4 AND 5 IN WP(C) :

- 1 RAVEENDRAN AK
AGED 57 YEARS
S/O. KUNJAYYAPPAN, AREEKARA HOUSE KRISHNAKRIPA,
PERUVALLIPADAM, IRINJALAKUDA P.O,THRISSUR, KERALA,
PIN - 680121



- 2 SHAGEER MS
AGED 57 YEARS
S/O. SHANMUKAN, MADATHIPARAMBIL, KANJIRAPPALLY P.O,
MUNIPPARA, PARIYARAM, THRISSUR, KERALA, PIN - 680721
- 3 NARAYANANKUTTY P
AGED 57 YEARS
S/O.KRISHNANKUTTY GUPTAN, PALAKALAM, PADINJAREKKARA,
KARIMBA, PALAKKAD, KERALA, PIN - 678597
- 4 PEETHAMBARAN
AGED 57 YEARS
S/O. UNNIRY, KIZHAKKETHAYYIL, ALOOR, MUKUNDAPURAM
THRISSUR, KERALA, PIN - 680683
- 5 SUDHANANDHAN KALPALLI
AGED 57 YEARS
S/O.VELAYUDHAN KALPALLI, KALPALLI HOUSE, KULAKKATTIRI,
THIRUVALI P.O, MALAPPURAM, KERALA, PIN - 676123
- 6 SUBASH CK
AGED 57 YEARS
S/O. KUTTAPAN, CHITRAMPILLY, EDAKKULAM P.O,
POOMANGALAM, THRISSUR, KERALA, PIN - 680688
- 7 ANILKUMAR KA
AGED 57 YEARS
S/O. AYYAPPAN, KOLAYATTIL HOUSE, PULLUR P.O,
AMBALANADA, THRISSUR, KERALA, PIN - 680683
- 8 KERALA FEEDS LTD.
KALLETUMKARA P.O, THRISSUR, KERALA, REPRESENTED BY
ITS MANAGING DIRECTOR, PIN - 680683
- 9 CHAIRMAN
KERALA FEEDS LTD., KALLETUMKARA P.O, THRISSUR,
KERALA, PIN - 680683

BY ADVS.

KARTHIKA MARIA

D.PREM KAMATH

ARUN THOMAS (K/844/2007)

ANIL SEBASTIAN PULICKEL (K/000278/2018)

JOE S. ADHIKARAM (K/000838/2020)

KURIAN ANTONY MATHEW (K/1812/2020)

MATHEW NEVIN THOMAS (K/000936/2019)

VEENA RAVEENDRAN (K/838/2016)



LEAH RACHEL NINAN(K/002325/2019)
SHYNI WILLIAM(K/002115/2023)
ANJALY ELIAS(K/754/2020)
NAVYA SEBY(K/000990/2024)
SHINTO MATHEW ABRAHAM(K/977/2018)
TOM THOMAS (KAKKUZHIYIL) (K/000821/2008)
BENNY P. THOMAS (SR.) (K/342/1988)
SRI.BENNY GERVACIS, ADDL.CGSC(CG-72)

THIS WRIT APPEAL WAS FINALLY HEARD ON 28.01.2025, ALONG WITH
WA.1445/2024 AND CONNECTED CASES, THE COURT ON 7.2.2025 PASSED
THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDHAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

WA NO. 1792 OF 2024

AGAINST THE JUDGMENT DATED 28.02.2024 IN WP(C) NO.2357 OF
2024 OF HIGH COURT OF KERALA

APPELLANTS/3RD PARTIES:

- 1 J.KARTHIKEYAN
AGED 56 YEARS
CO-ORDINATOR, KLD BOARD, SEED UNIT, DHONI FARM,
PALAKKAD-678009, RESIDENT OF: THUSHARAM NARUVANMOODU
(PO), THIRUVANAHTAPURAM, PIN - 695528
- 2 K.G.JUDY
AGED 57 YEARS
MANAGER (FD), KLD BOARD, MODERN BULL MOTHER FARM,
KOLAHALAMEDU, IDUKKI-685501. RESIDENT OF: KOTTIYATH
HOUSE, MOSQUE ROAD, MARADU, ERANKULAM, PIN - 682304
- 3 BHADRA.K
AGED 50 YEARS
DEPUTY MANAGER (FD), KLD BOARD, KAINOOR P.O, PUTHUR,
THRISSUR - 680014. RESIDENT OF: KANNIMEL HOUSE,
PUNNAMOOD, MAVELIKKARA, ALAPPUZHA, PIN - 690101

BY ADVS.
K.RAJEEV
V.VISAL AJAYAN

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 5 IN WP(C):

- 1 DR. JYOTHISH KUMAR. V
AGED 58 YEARS
DEPUTY GENERAL MANAGER, KERALA LIVESTOCK DEVELOPMENT
BOARD, GOKULAM, PATTOM, THIRUVANANTHAPURAM RESIDING AT
8A, SIVAJI PEARL APARTMENT, E STREET, JAWAHAR NAGAR,
KOWDIAR, SASTHAMANGALAM PO, THIRUVANANTHAPURAM, PIN -
695010
- 2 STATE OF KERALA
REPRESENTED BY GOVERNMENT PLEADER, HIGH COURT OF
KERALA, PIN - 682031
- 3 THE ADDL. CHIEF SECRETARY
FINANCE (PRC-C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 4 THE PRINCIPAL SECRETARY
DEPARTMENT OF AGRICULTURE (ANIMAL HUSBANDRY & DIARY
DEVELOPMENT) SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 5 THE KERALA LIVESTOCK DEVELOPMENT BOARD
REPRESENTED BY ITS MANAGING DIRECTOR, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, PIN - 695004
- 6 THE CHAIRMAN
THE KERALA LIVESTOCK DEVELOPMENT BOARD, GOKULAM,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004

BY ADVS.
REKHA VASUDEVAN
Millu Dandapani

THIS WRIT APPEAL WAS FINALLY HEARD ON 28.01.2025, ALONG WITH
WA.1445/2024 AND CONNECTED CASES, THE COURT ON 7.2.2025 PASSED THE
FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

WA NO. 1841 OF 2024

AGAINST THE ORDER DATED 26.09.2024 IN WP(C) NO.31507 OF 2024
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 3 IN WP(C) :

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, GENERAL
ADMINISTRATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 2 THE ADDITIONAL CHIEF SECRETARY
FINANCE (PRC-C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 3 THE PRINCIPAL SECRETARY
DEPARTMENT OF AGRICULTURE (ANIMAL HUSBANDRY & DAIRY
DEVELOPMENT), SECRETARIAT, THIRUVANANTHAPURAM, KERALA,
PIN - 695001

ADV.VINITHA.B,GOVERNMENT PLEADER

RESPONDENTS/PETITIONER & RESPONDENTS 4 & 5 IN WP(C) :

- 1 M PRABHUDHAS
AGED 57 YEARS
DEPUTY MANAGER (PURCHASE), KLD BOARD LTD, HEAD OFFICE,
PATTOM, THIRUVANANTHAPURAM, -695 004, KERALA, RESIDING
AT 684-G, GERIZIM, NH220, PAMBANAR PO, PEERMADE,
IDUKKI, KERALA, PIN - 685531



- 2 KERALA LIVESTOCK DEVELOPMENT BOARD
REPRESENTED BY ITS MANAGING DIRECTOR, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, KERALA, PIN - 695004
- 3 THE CHAIRMAN
KERALA LIVESTOCK DEVELOPMENT BOARD, GOKULAM, PATTOM,
THIRUVANANTHAPURAM, KERALA, PIN - 695004

BY ADVS.

REKHA VASUDEVAN

SOYA D.C(K/200/2003)

MAHESH C.R. (K/204/2006)

ELIZABETH V.JOSEPH(K/1385/2020)

Millu Dandapani -R2 AND R3

THIS WRIT APPEAL WAS FINALLY HEARD ON 28.01.2025, ALONG WITH
WA.1445/2024 AND CONNECTED CASES, THE COURT ON 7.2.2025 PASSED
THE FOLLOWING:

**“CR”****COMMON JUDGMENT****Muralee Krishna, J.**

The issue in all these writ appeals pertains to the expected policy decision of the Government to enhance the retirement age of the employees of various Public Sector Undertakings ('PSU's in short) in Kerala, and the legality of the direction issued by the learned Single Judge by way of final judgments as well as by way of interim orders, allowing the petitioners in the writ petitions to continue in the posts where they are presently working, till such a decision is being taken by the Government on the basis of a report to be submitted by the expert committee appointed to study the feasibility of such enhancement of the retirement age from 58 to 60.

2. The appellants in W.A Nos.1445, 1478 and 1841 of 2024 are the petitioners in W.P.(C) Nos.2357, 11951 and 31507 of 2024 respectively. They are employees of the Kerala Livestock Development Board ('KLD Board', in short). The appellants in W.A No.1790 of 2024 are the petitioners in W.P.(C)No.10816 of 2024. They are employees of Kerala Feeds Ltd. The appellants in W.A.



No.1792 of 2024 are third parties to W.P.(C)No.2357 of 2024, who are also employees of the KLD Board. As per the final judgments dated 28.02.2024 and 11.04.2014 passed in respective Writ petitions Nos.2357 and 11951 of 2024, the learned Single Judge directed the 1st respondent State of Kerala to direct the expert committee constituted to study the feasibility of enhancement of the retirement age of the employees of PSUs in Kerala from 58 to 60 years and submit a report within four months from the date of receipt of a copy of the judgment. The petitioners-employees were allowed to continue in the post where they are working, with a rider that they would be entitled to draw only the same wage at their risk and their continuation in the post would be in accordance with the recommendation of the expert committee and the orders passed by the 1st respondent State. In W.P.(C) No.31507 of 2024 and W.P.(C)No.10816 of 2024, the learned Single Judge passed interim orders permitting the petitioners therein to continue in service till such final decision is being taken by the 1st respondent State of Kerala. Being aggrieved by the permission granted to continue in the post by the employees till the final decision is taken by the Government, the 1st respondent State of Kerala preferred



W.A.Nos.1445, 1478, 1790 and 1841 of 2024. The employees who are about to be promoted on the retirement of the petitioners in W.P.(C)No.2357 of 2024 filed W.A. No.1792 of 2024.

3. Heard the learned Senior Government Pleader appearing for the State, the learned counsel for the appellants in W.A. No.1792 of 2024, the learned counsel for the 1st respondent in W.A. No.1445 of 2024, the learned Senior Counsel appearing for respondents 1 to 7 in W.A. No.1790 of 2024, the learned Senior Counsel appearing for respondent 2 and 3 in W.A. No.1445 of 2024 and for respondents 8 and 9 in W.A. No.1792 of 2024 and the learned counsel appearing for respondents 8 and 9 in W.A. No.1790 of 2024.

4. The learned Senior Government Pleader argued that the age of superannuation is a matter of policy decision of the Government and till a decision is taken in that regard, an employee cannot claim it as a matter of right. As per Ext.P5 order dated 04.11.2022, based on the decision of the cabinet, the Government stopped the implementation of the recommendation of the report filed by the previous expert committee regarding the



retirement age of employees in PSUs in Kerala and it was decided to conduct a study on a case-to-case basis of each PSUs. As per Ext.P6 order dated 19.04.2023, the Government reconstituted the expert committee for conducting a comprehensive study on bringing KSEBL, KSRTC and KWA under the common framework for pay/wage structure in tune with the report of the erstwhile expert committee. The enhancement of retirement age in State PSUs on a case-to-case basis as mentioned in Ext.P5 Government order dated 04.11.2022 was also included in the terms of reference of the new expert committee constituted as per Ext.P6. By relying on the judgment of the Apex Court in **Sureshchandra Singh v. Fertilizer Corpn. of India Ltd. [(2004) 1 SCC 592]** and **Central Council for Research in Ayurvedic Sciences v. Bikartan Das [2023 (5) KHC SN 28]** the learned Senior Government Pleader argued that the decision regarding age of superannuation is a policy matter and it is not violative of Article 14 of the Constitution of India, since service conditions in each PSU are different. The learned Senior Government Pleader further submitted that a writ of mandamus cannot be issued in the matter of policy decision of the Government and placed reliance on the



judgments of the Apex Court in **New Okhla Industrial Development Authority v. B.D Singhal [(2021) 17 SCC 435]** and **Prakasan M.P.(Dr.) v. State of Kerala [2023 (2) KLT 181]**. By relying on the judgment of this Court in **Union Territory of Lakshadweep v. Salmikoya.K.[2025 (1) KLT 65]**, the learned Senior Government Pleader submitted that an appeal under Section 5(i) of the High Court Act, 1958, is not maintainable against the impugned interlocutory order since it is not the one affecting substantial rights of the parties.

5. Sri. K. Rajeev, the learned counsel appearing for the appellants in W.A. No.1792 of 2024 submitted that at present the retirement age of the employees of KLD Board is 58 years. It is the Rule that prevails at the time of superannuation will be applicable to the employees and they cannot claim the benefit of a future Rule that is expected to be implemented, by filing a writ petition. The order impugned passed by the learned Single Judge adversely affects the appellants who are expecting a promotion to the next higher post on the retirement of the writ petitioners. What is the *locus standi* of the writ petitioners to raise such a claim by



filing the writ petitions is not pleaded in the petition. Only because the Government has decided to constitute an expert committee to study the enhancement of the retirement age of the employees of PSUs, the petitioners will not get any right to claim that they are entitled to the benefit that would be expected to be given to the employees, if the recommendation is in their favour. The learned counsel relied on the judgments of the Apex Court in **P.Venugopal v. Union of India [(2008) 5 SCC 1]**, **Goa State Cooperative Bank Ltd. v. Krishna Nath A. (dead) through legal representatives [(2019) 20 SCC 38]** and the judgments of this Court in **Prakasan v. State of Kerala [2010 (4) KLT 281]** and that of a Division Bench of this Court dated 24.01.2025 in **OP(KAT)No.345 of 2022**.

6. The learned counsel for the 1st respondent in W.A. No.1445 of 2024 argued that in the impugned order, there is no direction to take a decision by the 1st respondent State in a particular manner. The prayer of the 1st respondent herein in the writ petition was only to direct the Government to take a decision on the basis of the recommendations of the already constituted



expert committee. Previously the retirement age of the employees in the KLD Board was enhanced from 56 to 58 by the Government. The learned counsel relied on the judgments of the Apex Court in **Sadasivan Nair G. (Dr.) v. Cochin University of Science and Technology [2021 (6) KHC 727]** and in **State of Madhya Pradesh v. Shyam Kumar Yadav [2024 KHC Online 8280]** in support of his arguments.

7. The learned Senior Counsel appearing for respondents 1 to 7 in W.A. No.1790 of 2024 argued that Ext.P6 decision taken by the Government to constitute a new expert committee was not a conscious decision. In the case of employees of 'NORKA', the Government has accepted the recommendation of the committee and enhanced the retirement age from 58 to 60. Therefore, the Government is taking a 'pick and choose' policy in the matter of enhancement of the retirement age, which is impermissible.

8. The learned Senior Counsel appearing for respondents 2 and 3 in W.A. No.1445 of 2024 and respondents 8 and 9 in W.A. No.1792 of 2024 argued that the KLD Board is supporting the enhancement of the retirement age since it is facing acute staff



shortage and had already recommended the Government to enhance the retirement age of the employees from 58 to 60. The learned Senior Counsel repeated the very same argument of the other supporting respondents that, in the impugned order the learned Single Judge directed the Government to get the report of the Expert Committee in a time-bound manner and to take a decision on the basis of the recommendations of that Committee. Moreover, there is no financial burden to the Government as the salary of the employees will be met by the Board. By relying on the judgment of the Apex Court in **Director, Lift Irrigation Corporation Ltd. v. Pravat Kiran Mohanty [(1991) 2 SCC 295]** the learned Senior Counsel argued that an employee has no fundamental right for promotion and the chance of promotion cannot be claimed as a right. The learned Senior counsel further relied on the judgments of the Apex Court in **Dwarka Prasad v. Union of India [(2003) 6 SCC 535]**, **Ramjas Foundation v. Union of India [(2010) 14 SCC 38]**, **Ravikumar Dhansukhlal Maheta v. High of Gujarat [2024 SCC Online SC 972]**, **Bihar State Electricity Board v. Dharamdeo Das [2024 SCC Online SC 1768]** and the judgment of Himachal Pradesh High Court in



Pankaj Sharma v. State of H.P. [2023 KHC Online 4561] in support of her arguments.

9. The learned counsel for respondents 8 and 9 in W.A. No.1790 of 2024 also addressed the arguments supporting the stand of the State.

10. For convenience of reference, with respect to the claim of the employees of the KLD Board, we refer the parties and materials on record as described in W.A. No.1445 of 2024 and as far as the employees of Kerala Feeds Ltd. are concerned, we refer them as in W.A No.1790 of 2024.

11. The present age of superannuation of the employees of the KLD Board as well as the employees of Kerala Feeds Ltd. is 58 years. As per Ext.P1 Board decision dated 19.12.2013 it was resolved to enhance the retirement age of directly recruited employees of KLD Board to 60 years. In consonance with the Board decision, as per Ext.P2, a proposal dated 18.04.2017 was submitted by the 4th respondent KLD Board to the Government to enhance the retirement age of its employees from 58 to 60. A committee has been constituted by the Government to study the



proposal and it was intimated to the 4th respondent by virtue of Ext.P3 letter dated 12.08.2017. As per Ext.P4 Government Order dated 29.10.2022, the Government took a decision to implement the recommendations of the committee to enhance the retirement age of the employees of PSUs to 60 years. However, the implementation of the clause pertaining to the enhancement of age of retirement of employees of PSUs was kept in abeyance in pursuance to the decision of the cabinet meeting and Ext.P5 consequent order dated 04.11.2022 was passed by the Government. Again by virtue of Ext.P6 Government Order dated 19.04.2023 another expert committee was constituted to examine the scope of bringing KSEBL, KSRTC, and KWA in the common framework for pay/wage structure in tune with the recommendation of the erstwhile expert committee. The report of this expert committee is sought to be finalized in a time-bound manner in the writ petitions filed by the employees of the KLD Board and the employees of Kerala Feeds Ltd. The Director Board of Kerala Feeds Ltd. had also recommended the Government to enhance the retirement age of its employees from 58 to 60 years.



12. In **Sureshchandra Singh [(2004) 1 SCC 592]** the Apex Court was considering a claim made by the employees of Fertilizers Corporation of India Ltd. for enhancement of retirement age from 58 years to 60 years, in par with the retirement age of Central Government employees implemented by the Government as per the recommendation of the 5th Central Pay Commission. The Court after considering the rival contentions held thus:

“The Appellants assail the decision of the Board on the ground of violation of principles of equality. It is alleged that the Board level employees were allowed to continue in service till the age of sixty and the employees like appellants who were below the Board level were forced to retire at the age of fifty-eight. In reply respondents submitted that board level employees could not be equated and compared with the other employees. Whole time directors, who are two in numbers, are directly appointed by the President of India for a fixed term of five years that could be reviewed even earlier; and that other members of the board are government servants and are nominees or representatives from various ministries and are appointed by the President of India for a term of three years. In these circumstances we find that board of directors themselves form a different class and cannot be compared with other employees in



regard to conditions of service applicable to them. Allegation of discrimination is also raised by the Appellants vis - a - vis employees of other corporations. Each Public Sector Undertaking is an independent body/entity and is free to have its own service conditions as per law. However, all employees in the FCIL who are working in its various Units and Divisions retire at the age of fifty-eight as per the relevant rules; and that even the future employees will retire at the age of fifty-eight. We also find that since the employees of different corporations could not be treated alike since every corporation will have to take into account its separate circumstances so as to formulate its policy and consequently the argument that there is discrimination of Appellants vis - a - vis employees of other corporation also cannot be accepted."

(Underline Supplied)

13. In **B.D Singhal [(2021) 17 SCC 435]** the Apex Court while considering the issue as to whether the High Court has transcended the limits of its power of judicial review under Article 226 of the Constitution of India by ordering retrospective effect to the order of Government of Uttar Pradesh enhancing the age of superannuation of its employees from 58 to 60 years held thus:

" Since the enhancement of the age of superannuation is a



“public function” channelised by the provisions of the statute and the Service Regulations, the doctrine of promissory estoppel cannot be used to challenge the action of Noida Authority. Though Noida Authority sought the approval of the State Government for the enhancement with “immediate effect”, it never intended or portrayed to have intended to give retrospective effect to the prospectively applicable government order. The representation of Noida Authority could not have given rise to a legitimate expectation since it was a mere recommendation which was subject to the approval of the State Government. Hence, the doctrine of legitimate expectation also finds no application to the facts of the present case.”

14. In **Prakasan M.P [2023 (2) KLT 181]** the Apex Court while considering the appeal filed by the members of the teaching faculty in Homeopathic Medical Colleges situated in the State of Kerala, seeking enhancement of age of retirement from 55 years to 60 years held thus:

“Such a decision lies exclusively within the domain of the Executive. It is for the State to take a call as to whether the circumstances demand that a decision be taken to extend the age of superannuation in respect of a set of employees or not. It must be assumed that the State would have weighed all the pros and cons before arriving at any decision to grant extension of age. As for the aspect of retrospectivity



of such a decision, let us not forget, whatever may be the cut - off date fixed by the State Government, some employees would always be left out in the cold. But that alone would not make the decision bad; nor would it be a ground for the Court to tread into matters of policy that are best left for the State Government to decide. The appellants herein cannot claim a vested right to apply the extended age of retirement to them retrospectively and assume that by virtue of the enhancement in age ordered by the State at a later date, they would be entitled to all the benefits including the monetary benefits flowing from G.O. dated 9th April, 2012, on the ground of legitimate expectation”.

(Underline Supplied)

15. In **Bikartan Das [2023 (5) KHC SN 28]** the Apex Court while considering the benefit of enhancement of retirement age from 60 to 65 years claimed by respondent No.1 therein who was appointed as a Research Assistant in Central Research Institute in par with the retirement age of Ayush Doctors, by relying on the judgment in **State of Bihar v. Teachers Association of Government Engineering College [(2000) 10 SCC 527]** held that the fixation of different retirement age to the employees of autonomous bodies and that of the Government employees will not be a discrimination coming under Article 14 of



the Constitution of India. The Court held that employees of autonomous bodies are governed by their own rules and bye laws and they cannot claim parity with the Government employees.

16. While coming to the decisions relied by Adv.K Rajeev, in **Venugopal [(2008) 5 SCC 1]** while considering the question of termination of tenure of the Directors in All India Institute of Medical Sciences before expiry of the normal tenure, the Apex Court held thus:

"A further decision relied upon in this connection by Mr Parasaran, learned Senior Counsel appearing for the respondent, is the decision of this Court in *Union of India v. Dr. S. Baliar Singh* [(1998) 2 SCC 208 : 1998 SCC (L&S) 522] particularly learned Senior Counsel has relied on para 12 of the said decision in support of his contention. Relying on this decision of this Court, it was contended that the rules which were in force on the date of retirement would govern the employee concerned. On this aspect of the matter, there cannot be any dispute as such aspect is well settled by a series of decisions of this Court as referred to hereinabove. But the problem arises when the constitutional validity of the statutory provisions is called in question on the ground of violation of fundamental rights. A person entering into a government service is no doubt liable to be dealt with by the relevant Act or the Rules but it ceases to be so in the event



of his success in challenging the constitutional validity of the same”.

17. In **Krishna Nath [(2019) 20 SCC 38]** the Apex Court held thus:

“It is a settled law that when there is stay of proceedings by court, no person can be made to suffer for no fault on his part and a person who has liability but for the interim stay, cannot be permitted to reap the advantages on the basis of interim orders of the court. In *Amarjeet Singh v. Devi Ratan* [(2010) 1 SCC 417 : (2010) 1 SCC (L&S) 1108] , it was held that no person can suffer from the act of court and unfair advantage gained by a party of interim order must be neutralised. The court should never permit a litigant to perpetuate illegality by abusing the legal process. It is the bounden duty of the court to ensure that dishonesty and any attempt to abuse the legal process must be effectively curbed and the court must ensure that there is no wrongful, unauthorised or unjust gain for anyone by the abuse of process of the court. No one should be allowed to use the judicial process for earning undeserved gains or unjust profits. The object and true meaning of the concept of restitution cannot be achieved unless the courts adopt a pragmatic approach in dealing with the cases”.

18. In **Prakasan [2010 (4) KLT 281]** the appellants who are the members of teaching faculty in Homeo Medical Colleges in



the State approached this court seeking enhancement of their retirement age from 55 years to 60 years, contending that the retirement age of teachers in the Medical Colleges teaching Modern Medicine (Allopathy) under the Director of Medical Education is increased from 55 to 60. After considering the rival contentions, this Court held that since the extension of the age limit for teaching staff of the Medical College is a policy decision, it is not open to the High Court to issue any positive direction for increasing the retirement of teaching staff of the Homeo Medical Colleges also.

19. In the judgment dated 24.01.2025 passed in **OP(KAT)No. 345 of 2022**, a Division Bench of this Court, after considering a claim made by the petitioners therein who are working in the paramedical category under the Directorate of Health Services, to enhance their retirement age in par with Doctors engaged in medical education held that the paramedical staff cannot as a matter of right demand that they should be treated at par with Doctors under whom they are working. The age of retirement of a Government servant is determined by the



Government. The court cannot entertain any claim for enhancement of retirement age. It is purely a policy decision of the Government.

20. In **Sadasivan Nair [2021 (6) KHC 727]** the Apex Court after considering a claim made by the appellant therein who was working as a Lecturer in the respondent University for reckoning his experience at the Bar as qualifying service for determination of superannuation pension held thus:

“While we accept the settled position of law that the rule applicable in matters of determination of pension is that which exists at the time of retirement, we are unable to find any legal basis in the action of the respondent University of selectively allowing the benefit of R.25(a). The law, as recognized by this Court in *Deoki Nandan Prasad* and *Syed Yousuddin Ahmed (supra)* unequivocally states that the pension payable to an employee on retirement shall be determined on the rules existing at the time of retirement. However, the law does not allow the employer to apply the rules differently in relation to persons who are similarly situated”.

(Underline Supplied)

21. In **Shyam Kumar Yadav [2024 KHC Online 8280]** this Court on considering the issue whether the appellant therein



is entitled to be absorbed as a regular employee, in view of the Government policy/circular and the long period of service rendered by him as daily wages held thus:

"It is true that an employee engaged on daily wages has no legally vested right to seek regularisation of his services. However, if the competent authority takes a policy decision within the permissible framework, its benefit must be extended to all those who fall within the parameters of such a policy. Authorities cannot be permitted to pick and choose in such circumstances".

(Underline Supplied)

22. In **Pravat Kiran Mohanty [(1991) 2 SCC 295]** the Apex Court held thus:

"There is no fundamental right to promotion, but an employee has only right to be considered for promotion, when it arises, in accordance with the relevant rules. From this perspective in our view the conclusion of the High Court that the gradation list prepared by the corporation is in violation of the right of the respondent/writ petitioner to equality enshrined under Article 14 read with Article 16 of the Constitution, and the respondent/writ petitioner was unjustly denied of the same is obviously unjustified".

(Underline Supplied)

23. In **Dwarka Prasad [(2003) 6 SCC 535]** the Apex



Court held thus:

“Articles 14 and 16 of the Constitution of India cannot be pressed into service to describe the fixation of lower quota for POs as discriminatory. It is well established in law that the right to be considered for promotion on fair and equal basis without discrimination may be claimed as a legal and a fundamental right under Articles 14 and 16 of the Constitution but chances of promotion as such cannot be claimed as of right. See: *Ramchandra Shankar Deodhar v. State of Maharashtra* [(1974) 1 SCC 317 : AIR 1974 SC 259] , AIR para 12, at p. 267)”.

24. In **Ramjas Foundation [(2010) 14 SCC 38]** the Apex Court held thus:

“The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatements or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case”.



25. In **Ravikumar [2024 SCC Online SC 972]** the Apex Court held thus:

“However, in India, no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts. The Legislature or the executive may decide the method for filling vacancies to promotional posts based on the nature of employment and the functions that the candidate will be expected to discharge. The courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the ‘best candidates’, unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution”.

26. In **Dharamdeo Das [2024 SCC Online SC 1768]** the Apex Court held thus:

“It is no longer *res integra* that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself”.

(Underline Supplied)

27. In **Pankaj Sharma [2023 KHC Online 4561]** the High



Court of Himachal Pradesh held thus:

“It is well settled law that a Court of Law is a Court of equity and in granting relief under Art.226, the Courts will bear in mind the conduct of the party, who invokes the jurisdiction. This principle emanates from the very nature of the power of interference under Art.226 of the Constitution of India i.e. a discretionary jurisdiction. Non disclosure of full facts or suppression of relevant materials or otherwise misleading the Court would disentitle a party to any relief. A person, who approaches the Court for justice, must come with clean hands and not one, who deliberately attempts to deflect the Court from the true path of justice by leading the Court to injustice”.

28. A scrupulous analysis of the decisions referred above would make it clear that the enhancement of the retirement age is a policy decision of the Government. By invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, as a matter of right an employee cannot seek a direction against the Government to take that policy decision in a particular manner. Similarly, the law which was in force on the date of retirement was applicable to the employees. Further, an employee in service cannot claim promotion as a matter of right.

29. In the writ appeals under our consideration, admittedly



the Government has not taken any decision regarding enhancement of the retirement age of employees as suggested by the respective Boards, so far. Only an expert committee was constituted by virtue of Ext.P6 notification to study the feasibility of the recommendations on a case-to-case basis. Till a recommendation is made by the expert committee to enhance the retirement age and a decision is being taken by the Government, the employees working in the PSUs cannot claim the benefit of proposals made by their respective Boards to the Government to enhance their retirement age. The study of the expert committee would differ from case to case, by taking into consideration the working conditions and other aspects existing in the PSUs, which will differ from one PSU to another. Therefore, the recommendation of the committee also will differ from case to case. A uniform approach with respect to the retirement age of the employees of different PSUs cannot be adopted by the expert committee as well as the Government. In such circumstances, the petitioners in the respective writ petitions are bound by the rules that are applicable to them as on the date of their respective dates of superannuation. An Employee cannot expect that the



Government will take the decision in a particular manner, on the proposal made by the PSU concerned. It completely depends on the study report of the expert committee constituted and also several other socio economic aspects under consideration of the Government. An employee cannot claim the benefit of a decision that is not yet taken by the Government. Therefore, we are of the considered opinion that the direction of the learned Single Judge in the impugned judgments and interim orders permitting the petitioners therein to continue in service till the expert committee submits the report and a decision is being taken by the Government is not legal.

30. In **Salmikoya.K [2025 (1) KLT 65]**, this Court considered the maintainability of an appeal under Section 5(i) of the Kerala High Court, 1958 and held that an appeal under that provision is maintainable against an interlocutory order if it affects the substantial right and liability of the parties. It is true that the appellants in W.A.No.1792 of 2024 who are at present employed in KLD Board are expecting promotion on the retirement of the petitioners in W.P.(C)No.2357 of 2024. But viewed in the



light of the dictum laid down by the Apex Court in Pravat Kiran Mohanty [(1991) 2 SCC 295], Dwarka Prasad [(2003) 6 SCC 535], Ravikumar [2024 SCC Online SC 972] and Dharamdeo Das [2024 SCC Online SC 1768] it is clear that they cannot claim promotion as a matter of right. But, they can definitely challenge a decision, which will adversely affect their prospects in employment, if that decision was rendered on wrong appreciation of settled principles of law. The portion of the impugned judgments in W.P.(C)Nos. 2357 of 2024 and 11951 of 2024 and interim orders in W.P.(C)Nos. 10816 of 2024 and 31507 of 2024, to the extent it permits the petitioners in the respective writ petitions to continue in service irrespective of their retirement age is one that substantially affects the rights of all the appellants herein. Therefore, we are inclined to allow these writ appeals in part.

31. In the result, these writ appeals are allowed in part by setting aside the impugned judgments dated 28.02.2024 and 11.04.2024 respectively, in W.P.(C)Nos. 2357 of 2024 and 11951 of 2024 and interim orders dated 27.03.2024 and 26.09.2024, respectively, in W.P.(C)Nos. 10816 of 2024 and 31507 of 2024



passed by the learned Single Judge to the extent permitting the petitioners therein to continue in service till a decision is being taken by the Government regarding enhancement of the retirement age from 58 to 60 years. We do not interfere with the direction of the learned Single Judge directing the State of Kerala to direct the expert committee to take a decision regarding the enhancement of the retirement age from 58 to 60 years in the PSUs mentioned therein in a time-bound manner.

The writ appeals are disposed of as above.

SD/-

ANIL K.NARENDRA, JUDGE

SD/-

MURALEE KRISHNA S., JUDGE

sks

APPENDIX OF WA 1792/2024

PETITIONER ANNEXURES

- Annexure A1 TRUE COPY OF THE LETTER ISSUED BY THE APPELLANT TO THE MANAGING DIRECTOR, KLD BOARD. DATED 23.05.2024
- Annexure A2 TRUE COPY OF THE REPRESENTATION MADE BY THE APPELLANT HEREIN TO THE KLD BOARD LTD.DATED 29.05.2024

RESPONDENT ANNEXURES

- ANNEXURE R5 (D) The true copy of the letter GO (P) No. 135/2022/Fin dated 04/11/2022 issued by the 2nd respondent
- ANNEXURE R5 (B) The copy of the letter No. PMB/3862/2006/1254 dated 18.04.2017 addressed by this respondent
- ANNEXURE R5 (C) The true copy of the letter No. F1/129/2017-AH, dated 12/08/2017, issued by the 2nd respondent to the 5th respondent
- ANNEXURE R5 (E) The true copy of the letter dated 16/02/2023 addressed to the Managing Director, KLD Board by the KLD Board Officers Confederation
- ANNEXURE R5 (F) The true copy of the GO (MS No. 88/2023/ID dated 21/12/2023 had enhanced the retirement age of Kerala Coir Workers Welfare Fund Board from 58 to 60 years
- ANNEXURE R5 (G) The true copy of the letter No PMB/3862/2006 dated 22/12/2023 issued by the 5th respondent to the Hon'ble Minister for Animal Husbandry and Dairying
- ANNEXURE R5 (A) The true copy of the GO (MS) No. 208/14/AD dated 24.09.2014
- Annexure R1 (a) A true copy of the judgment dated 01.04.2013 in W P (C) No. 7858 of 2011 of



this Honourable Court

Annexure R1(b)

A true copy of the judgment dated
15.07.2014 in W P (C) No. 5626 of 2014 and
connected cases of this Honourable Court



APPENDIX OF WA 1445/2024

RESPONDENT ANNEXURES

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| Annexure R1(b) | A true copy of the judgment dated 15.07.2014 in W P (C) No. 5626 of 2014 and connected cases of this Honourable Court |
| Annexure R1(c) | A true copy of the Cabinet Decisions of 11.12.2024 of the Government of Kerala as downloaded from the Official Website of Kerala Chief Minister |
| Annexure R1(a) | A true copy of the judgment dated 01.04.2013 in W P (C) No. 7858 of 2011 of this Honourable Court |