

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 4TH DAY OF OCTOBER 2017/12TH ASWINA, 1939

WP(C).No. 19757 of 2011 (T)  
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PETITIONERS:  
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1. AJI P.S., PUTHENPARAMBIL HOUSE,  
KANJIRAMATTAM.
2. AJEETHAN V.K.,  
VAZHAKUZHAKKAL HOUSE,  
VALAYANCHIRANGARA P.O., PERUMBAVOOR.
3. SHIBU C. JOHN, CHERUTHOTTIL HOUSE,  
AMBALLUR P.O., ERNAKULAM.
4. SANDEEP M.N., MOOSAPPILLIL HOUSE,  
VALAYANCHIRANGARA P.O., PERUMBAVOOR.
5. SHEEBA V.C.,  
EDAPPARATHUNDIL HOUSE, KANDANADU P.O.,  
TRIPUNITHURA.
6. ASHRAFF M.K.,  
MATTATHIL HOUSE, NAD, ALWAYE.

BY ADVS.SRI.P.P.JACOB  
SRI.T.P.GOPAKUMAR

RESPONDENTS:  
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1. REGISTRAR OF CO-OPERATIVE SOCIETIES  
(DIARY), (DIRECTOR DIARY DEVELOPMENT  
DEPARTMENT),  
DIRECTORATE OF DIARY DEVELOPMENT,  
THIRUVANANTHAPURAM, PIN-695 004.
2. THE ERNAKULAM CO-OPERATIVE MILK  
PRODUCER'S UNION LTD., ERNAKULAM DIARY,  
TRIPPUNITHURA-682 301,  
REPRESENTED BY THE GENERAL MANAGER.

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3. THE ERNAKULAM REGIONAL CO-OPERATIVE  
MILK PRODUCER'S UNION LTD.NO.150(D),  
P.B.NO.2212, EDAPPALLY,  
KOCHI-682 024, REPRESENTED BY  
ITS MANAGING DIRECTOR.
4. THE DIARY MANAGER,  
ERNAKULAM DIARY, TRIPUNITHURA-682 301.
5. THE DISTRICT LABOUR OFFICER,  
LABOUR OFFICE, CIVIL STATION,  
ERNAKULAM-682 331.

R1& R5 BY GOVERNMENT PLEADER SRI.BIMAL K.NATH  
R3 BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 04-10-2017, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE PHOTOCOPY OF THE CIRCULAR DATED 15.12.1992 ALONG WITH THE NOMINATION FORM.
- EXT. P2 : TRUE PHOTOCOPY OF THE CIRCULAR DATED 10.12.2010.
- EXT. P3 : TRUE PHOTOCOPY OF THE STAFF PATTERN APPLICABLE TO THE THIRD RESPONDENT.
- EXT. P4 : TRUE PHOTOCOPY OF THE CERTIFICATE SHOWING THE REMITTANCE TOWARDS PROVIDENT FUND SCHEME FOR THE YEAR 2008-09 RELATING TO FIRST PETITIONER.
- EXT. P5 : TRUE PHOTOCOPY OF THE IDENTITY CARD ISSUED TO THE SECOND PETITIONER BY THE THIRD RESPONDENT.
- EXT. P6 : TRUE PHOTOCOPY OF THE IDENTITY CARD ISSUED TO SECOND PETITIONER FROM THE E.S.I. CORPORATION DATED NIL.
- EXT. P7 : TRUE PHOTOCOPY OF THE PAPER NOTIFICATION PUBLISHED IN MATHRUBHUMI DAILY DATED 2.2.11.
- EXT. P8 : TRUE PHOTOCOPY OF THE INTERIM ORDER IN WPC.NO.12126/2011 DATED 12.4.2011.
- EXT. P9 : TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE THIRD RESPONDENT TO THE 6TH PETITIONER DATED 30.4.2011.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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**SHAJI P. CHALY, J.**

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**W.P.(C) No.19757 of 2011**  
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**Dated this the 4<sup>th</sup> day of October, 2017**

**JUDGMENT**

Petitioners are working as Casual Labourers on contract basis under the 1<sup>st</sup> respondent for the past several years. According to the petitioners, they are entitled to be regularized in the service of the 3<sup>rd</sup> respondent society.

2. A similar issue was considered by a learned Single Judge of this Court in W.P.(C) No.12126 of 2011 and connected cases and rendered a judgment dated 11.08.2017.

In paragraphs 5 and 6 of the judgment, it is held as follows:

*"5. However, it is to be noted that the ERCMPU cannot take a decision for regularization of the petitioners without concurrence of the Registrar of Co-operative Societies (Dairy), (Director, Dairy Development Department). This Court is of the view that the labour of the petitioners for 2 decades (those who are continuing as on today) shall not be deprived of. These people have no other pasture for their livelihood. It is to be noted that these persons, who are no continuing have expertised in this field. Instead of replacing these experts, it is appropriate to regularize them in the larger interest of the society as well as in the larger public interest. In such circumstances, this Court is of the view that the petitioners case shall be considered for regularization prospectively without any delay.*

*6. Therefore, this Court dispose of these writ petitions with a direction to the Managing Director of the ERCMPU to prepare a list of casual labourers, who are among the petitioners presently working with the ERCMPU as on day today and forward the same to the*

*Director for consideration of their claim for regularization in terms of the judgment in **Umadevi's** case (supra). Needful shall be done within a period of one month from the date of receipt of a copy of this judgment. It is made clear that those petitioners, who are working on rotation basis shall also be considered and the artificial break shall be ignored for the purpose of forwarding the list. Thereafter, the Director, Dairy Development Department shall take appropriate decision within a further period of two months after hearing the ERCMPU and the petitioners. No costs."*

In my considered opinion, petitioners herein are also similarly situated persons entitled to get the benefit of the directives contained in the judgment quoted above.

3. Therefore, there will be a direction to the 3<sup>rd</sup> respondent to forward the list of petitioners also for consideration of the Director, Dairy Development Department, who shall take appropriate action within two months from the date of receipt of communication from the 3<sup>rd</sup> respondent. I also make it clear that the petitioners are only entitled to get the benefit of the judgment of the learned Single Judge referred to above.

The writ petition is disposed of accordingly.

Sd/-  
**SHAJI P. CHALY**  
**JUDGE**

St/-  
04.10.2017