

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

OP (CAT).NO. 82 of 2012 (Z)

O.A.NO.466/2009 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

PETITIONER(S) :

**MEENA BHASKER, AGED 48 YEARS,
D/O.D.JAYASING, ASSISTANT PERSONNEL OFFICER,
OFFICE OF THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, CHENNAI, RESIDING AT 34/B,
BHAGAVATHY AMMAL STREET, KOLATHUR, CHENNAI-600 009.**

BY ADV. SMT.REKHA VASUDEVAN

RESPONDENT(S) :

- 1. SMT.C.GIRIJA, AGED 53 YEARS,
WIFE OF P.V.VENUGOPAL, OFFICE SUPERINTENDENT GRADE I,
PERSONNEL BRANCH, SOUTHERN RAILWAY,
PALAKKAD DIVISION, RESIDING AT ASHTAPADI,
VISHNU NAGAR, PUDUPPARIYARAM, PALAKKAD-678 733.**
- 2. UNION OF INDIA,
REPRESENTED BY THE CHAIRMAN/RAILWAY BOARD,
NEW DELHI-110 001.**
- 3. THE GENERAL MANAGER,
SOUTHERN RAILWAY, HEADQUARTERS OFFICE,
CHENNAI-600 009.**
- 4. THE CHIEF PERSONNEL OFFICER,
SOUTHERN RAILWAY, HEADQUARTERS OFFICE, CHENNAI-600 009.**
- 5. THE SENIOR DIVISIONAL PERSONNEL OFFICER,
SOUTHERN RAILWAY, PALGHAT-678 733.**
- 6. SRI.V.SRINIVASAM ASSISTANT PERSONNEL OFFICER,
OFFICE OF CHIEF ELECTRICAL WORKSHOP ENGINEER,
SOUTHERN RAILWAY, PERAMBUR-678 713.**
- 7. SRI.NAGAYASAMY,
ASSISTANT PERSONNEL OFFICER, HEADQUARTERS,
SOUTHERN RAILWAY, CHENNAI-600 008.**

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8. SRI.B.MURUGESAN,
ASSISTANT PERSONNEL OFFICER, SOUTHERN RAILWAY,
TRIVANDRUM, PRESENTLY RESIDING AT CHETTY STREET,
PARAKKAI, NAGERCOIL-600 010.

9. SRI.M.RAMAN,
ASSISTANT PERSONNEL OFFICER,
OFFICE OF SENIOR DIVISIONAL PERSONNEL OFFICER,
SOUTHERN RAILWAY, CHENNAI-600 009.

R1 BY ADVS.SRI.AMIT SHARMA
SRI.SHAFIK.M.ABDULKHADIR
SMT.SHAMEENA SALAHUDHEEN
R2 TO R5 BY SMT.SUMATHY DANDAPANI (SENIOR ADVOCATE)
ADV. SRI.C.S.DIAS, S.C

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 06-02-2015,
ALONG WITH OP (CAT).NO.925 OF 2012, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE LR.NO.E(GP)87/2/123 DATED 20/04/1989.
- EXHIBIT P2: TRUE COPY OF THE LR.NO.E(SCT)73CM15/13 DATED 17/08/1974.
- EXHIBIT P3: TRUE COPY OF THE LR.NO.E(SCT)1/49/5(P.T) DATED 16/06/1992.
- EXHIBIT P4: TRUE COPY OF THE LR.NO.P(G)532/XII/APO/1994-96 DATED 12/10/1994.
- EXHIBIT P5: TRUE COPY OF THE LR.NO.P(G)532/XII/GR.B/94-96 DATED 05/04/1995.
- EXHIBIT P6: TRUE COPY OF THE LR.NO.J/P/71/P/RO DATED 22/02/1996.
- EXHIBIT P7: TRUE COPY OF THE ASSESSMENT SHEET ALONG WITH THE NOTING AND FINAL APPROVAL SHEET.
- EXHIBIT P8: TRUE COPY OF THE LR.NO.95E(SCT)1/49/5(2) DATED 21/08/1997.
- EXHIBIT P9: TRUE COPY OF THE LR.NO.E(P&A)1-98/RT6 DATED 14/05/1996.
- EXHIBIT P10: TRUE COPY OF THE NOTIFICATION NO.P(G)532/XII/LDCE(96-98) APO DATED 14/10/1999.
- EXHIBIT P11: TRUE COPY OF THE LR.NO.P(G)532/XII/LDCE/APO (96-98) DATED 05/12/2000.
- EXHIBIT P12: TRUE COPY OF THE OFFICE ORDER NO.HPB(012/2001) DATED 02/01/2001.
- EXHIBIT P13: TRUE COPY OF THE MARK SHEET.
- EXHIBIT P14: TRUE COPY OF THE BREAKUPS OF THE MARKS AWARDED FOR THE ACR.
- EXHIBIT P15: TRUE COPY OF THE LR.NO.P(G) 532/LDCE/APO (80-98) DATED 09/01/2011.
- EXHIBIT P16: TRUE COPY OF THE FINAL ORDER DATED 08/03/2002 OF THE CAT MADRAS BENCH IN O.A.NOS.493 & 731 OF 2001.
- EXHIBIT P17: TRUE COPY OF THE LR.NO.95-E(SCT)1/49/5(GAZ) DATED 05/09/2002.
- EXHIBIT P18: TRUE COPY OF THE LR.NO.(G)534/XVI/NEWRLYZONE (SWR) DATED 07/10/2002.
- EXHIBIT P19: TRUE COPY OF THE JUDGMENT DATED 23/12/2003 OF THE HONORABLE HIGH COURT AT MADRAS.
- EXHIBIT P20: TRUE COPY OF THE LR.NO.2005-E(SCT)1/25/14 DATED 16/11/2005.

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- EXHIBIT P21: TRUE COPY OF THE LR.NO.E(GP)2005/2/61 DATED 14/09/2006.**
- EXHIBIT P22: TRUE COPY OF THE LETTER DATED 26/04/2007.**
- EXHIBIT P23: TRUE COPY OF THE LETTER DATED 19/06/2007.**
- EXHIBIT P24: TRUE COPY OF THE INCUMBENTS WORKING AS APO AS
ON 01/01/2001.**
- EXHIBIT P25: TRUE COPY OF THE ROSTER MAINTAINED FOR 30% QUOTA.**
- EXHIBIT P26: TRUE COPY OF THE ROSTER MAINTAINED FOR 70 % QUOTA.**
- EXHIBIT P27: TRUE COPY OF THE SELECT PANEL DATED 20/06/2007.**
- EXHIBIT P28: TRUE COPY OF THE LETTER DATED 11/07/2007.**
- EXHIBIT P29: TRUE COPY OF THE BOARD'S LETTER DATED 20/08/1991.**
- EXHIBIT P30: TRUE COPY OF THE BOARD'S LETTER DATED 19/09/1988.**
- EXHIBIT P31: TRUE COPY OF THE ORDER DATED 18/07/2007 OF THE HONORABLE
SUPREME COURT.**
- EXHIBIT P32: TRUE COPY OF THE LETTER DATED 22/08/2007.**
- EXHIBIT P33: TRUE COPY OF THE LR.NO.P(G)532/XII/APO/70% DATED 05/09/2007.**
- EXHIBIT P34: TRUE COPY OF THE REPRESENTATION DATED 25/09/2007 SUBMITTED
BY THE FIRST RESPONDENT.**
- EXHIBIT P35: TRUE COPY OF THE LR.NO.P(G)534/XII/JSGR.B/VOL.X
DATED 27/12/2007.**
- EXHIBIT P36: TRUE COPY OF THE APPELLATE ORDER DATED 11/02/2009.**
- EXHIBIT P37: TRUE COPY OF THE LETTER DATED 22/04/2009 ALONG WITH
THE ANNUAL CONFIDENTIAL REPORT.**
- EXHIBIT P38: TRUE COPY OF THE O.A.NO.466 OF 2009 AS ON THE FILES OF
THE HONORABLE CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM
BENCH (WITHOUT ANNEXURES).**
- EXHIBIT P39: TRUE COPY OF THE M.A.NO.551 OF 2009 IN O.A.NO.466 OF 2009.**
- EXHIBIT P40: TRUE COPY OF THE REPLY DATED OCT.2009 BY AND ON BEHALF OF
RESPONDENTS 2 TO 5.**
- EXHIBIT P41: TRUE COPY OF THE REJOINDER FILED BY THE 1ST RESPONDENT IN
O.A.NO.466 OF 2009 ALONG WITH THE ANNEXURE.**
- EXHIBIT P42: TRUE COPY OF THE REPLY STATEMENT TO THE REJOINDER IN
O.A.NO. 466/09.**

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EXHIBIT P43: TRUE COPY OF THE ADDITIONAL REJOINDER FILED BY
THE 1ST RESPONDENT HEREIN IN O.A.NO.466 OF 2009.

EXHIBIT P44: TRUE COPY OF THE REPLY STATEMENT FILED BY THE PETITIONER
HEREIN IN O.A.466 OF 2009.

EXHIBIT P45: TRUE COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY
RESPONDENTS 2 TO 5.

EXHIBIT P46: TRUE COPY OF THE AFFIDAVIT DATED SEPTEMBER 2011 FILED BY
THE DEPUTY CPO.

EXHIBIT P47: TRUE COPY OF THE ADDITIONAL REPLY STATEMENT ALONG WITH
THE M.A. TO ACCEPT THE ADDITIONAL REPLY STATEMENT.

EXHIBIT P48: TRUE COPY OF THE AFFIDAVIT OF THE 1ST RESPONDENT
DATED 04/10/2011.

EXHIBIT P49: TRUE COPY OF THE AFFIDAVIT DATED OCTOBER 2011 FILED BY
DEPUTY CHIEF PERSONNEL OFFICER.

EXHIBIT P50: TRUE COPY OF THE FINAL ORDER DATED 09/11/2011 IN
O.A.NO.466 OF 2009 OF THE CAT ERNAKULAM BENCH.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

Thottathil B.Radhakrishnan

&

C.T.Ravikumar, JJ.

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OP(CAT).Nos.82 of 2012-Z & 925 of 2012-Z

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Dated this the 3rd day of April, 2012

Judgment

Thottathil B.Radhakrishnan, J.

- 1.These original petitions filed under Article 227 of the Constitution are against final order dated 9.11.2011 issued by the Central Administrative Tribunal, Ernakulam Bench in O.A.No.466 of 2009.
- 2.OP(CAT).No.925 of 2012 is by the establishment and OP(CAT).No.82 of 2012 is by Meena Bhasker, 9th respondent in the original application before the Tribunal.
- 3.We have heard the learned counsel for Meena Bhasker, the learned senior counsel for the establishment and the learned counsel for the first respondent in these original petitions, who was the applicant before the Tribunal.

4.The applicant's grievance before the Tribunal was regarding the inclusion in a panel for promotion as Assistant Personnel Officer. Her claim related to 1999 notification – 2001 select list.

5.Whatever be the reasons that the Tribunal has given to quash Annexure-A1 dated 27.12.2007 which was impugned before the Tribunal, there seems to be the need to examine further as to whether the directions issued to the establishment in paragraph 11 of the impugned final order could be sustained as they now stand. In paragraph 10 of that order, the Tribunal had clearly noted the plea of the establishment that in 2003, 2007 and 2009, the establishment had conducted selection against 30% quota.

6.Now, adverting to paragraph 11 of the additional reply statement submitted by the establishment to the rejoinder specifically raises the plea that the applicant is a person participated in all selections and that she turns around to challenge the earlier selection having become unsuccessful

in the later selections. In this context, it is rightly pointed out by the learned counsel appearing for the petitioner in OP(CAT).No.82 of 2012 that though Annexure-A2 was of the year 2001 and the rejection of the representation for enlargement of the panel was made in 2007, the original application was instituted only two years thereafter. She, in fact, opposes this Court making an order of remit to the Tribunal to reconsider the aforesaid aspects. It appears that her client is apprehending that the exercise would be a long drawn one and many closed issues would be attempted to be opened up by recourse to proceedings seeking leave to amend the original application. We record this submission and leave it to the petitioner in OP(CAT).No.82 of 2012 to raise all objections to any application for amendment, impleadment etc. if and when the applicant makes such a request before the Tribunal following this judgment. We also preserve the right of the Railway establishment to raise all such objections before the Tribunal.

For the aforesaid reasons, we uphold the findings regarding Annexure-A1 to the limited extent it does not affect any person in Annexure-A2 list or any other person who has been brought into establishment against 30% quota in subsequent selections. Recording this, we make an otherwise open remand for consideration of issues that may be relevant. The parties are directed to mark their appearance before the Tribunal on 16.5.2012. At request of parties, we record that the learned Tribunal would consider expediting final disposal of the matter since the applicant has hardly three years of service left. The original petitions are ordered accordingly.

Thottathil B.Radhakrishnan,
Judge.

C.T.Ravikumar,
Judge.