

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

OP (CAT).NO. 1248 OF 2013 (Z)

OA 221/2011 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

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PETITIONERS/APPLICANTS :

- 1. P.K.KUNHI, AGED 48 YEARS,
S/O.ATTAKKIDAVU, LABORATORY HELPER,
WATER QUALITY TESTING LABORATORY,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT, SUB DIVISION,
UNION TERRITORY OF LAKSHADWEEP, CHETLAT-682554.**
- 2. K.K.SETHI, AGED 53 YEARS,
S/O.SAYED CHERIYAPURA,
NOW WORKING AS LABORATORY HELPER,
WATER QUALITY TESTING LABORATORY,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT, SUB DIVISION,
UNION TERRITORY OF LAKSHADWEEP , KADAMATH-682556.**
- 3. T. K. ABDULLA, AGED 51 YEARS,
S/O.KOYAMMA PUTHIYA ILLAM, LABORATORY HELPER,
WATER QUALITY TESTING LABORATORY,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT, SUB DIVISION,
UNION TERRITORY OF LAKSHADWEEP , KADAMATH-682556.**
- 4. P. M. KUNHI SEETHIKOYA, AGED 44 YEARS,
S/O.SAYED ISMAIL KOYA, LABORATORY HELPER,
WATER QUALITY TESTING LABORATORY,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT, SUB DIVISION,
UNION TERRITORY OF LAKSHADWEEP , KILTAN-682558.**

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENT(S)/RESPONDENTS:

- 1. UNION OF INDIA,
REP: BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF PERSONNEL AND PUBLIC GRIEVANCES,
DEPARTMENT OF PERSONNEL AND TRAINING, NEW DELHI-110001.**
- 2. THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP, KAVARATHI-682555.**

(....2)

- 3. THE SECRETARY TO THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP, KOCHI-682003.**
- 4. THE SUPERINTENDING ENGINEER,
LAKSHADEEP, PUBLIC WORKS DEPARTMENT,
UNION TERRITORY OF LAKSHADWEEP, KAVARATTI-682555.**
- 5. THE EXECUTIVE ENGINEER,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT,
UNION TERRITORY OF LAKSHADWEEP, KADAMATH-682556.**
- 6. THE ASSISTANT ENGINEER,
LAKSHADWEEP PUBLIC WORKS DEPARTMENT,
UNION TERRITORY OF LAKSHADWEEP, KADAMATH-682556.**

R1 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

R1 BY ADV. SRI.N.NAGARESH, ASG OF INDIA

R2 TO 6 BY ADV.SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN.

**THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 03-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (CAT).NO. 1248 OF 2013 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:-A TRUE COPY OF MEMORANDUM OF ORIGINAL APPLICATION NO. 221/2011

EXT.P2:-A TRUE COPY OF THE REPLY STATEMENT DTD 18/11/2011

EXT.P3:A TRUE COPY OF THE REJOINDER DTD 29/5/2012

**EXT.P4:A TRUE COPY OF THE ORDER PASSED BY THE TRIBUNAL IN OA 221/2011 DTD
4/1/2013**

RESPONDENT(S)' EXHIBITS: NIL

OKB.

TRUE COPY

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.P.(CAT) No.1248 of 2013

Dated this the 3rd day of February, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard the learned counsel for the petitioners and the learned Assistant Solicitor General of India.

2. Read order dated 1/4/2014 minuted while admitting this original petition.

3. The petitioners filed an original application before the Central Administrative Tribunal. That was filed in 2011. It contained the statement of the applicants that the original application is within the period of limitation. That position was not controverted by the establishment in its reply statement. The applicants, who are the petitioners before us, were not represented, when the matter was taken up before the Tribunal. Without expressing anything on the merits, the Tribunal dismissed the original application on the ground of limitation referring to Section 21 of the Administrative Tribunals Act, 1985, the 'Act' for short. Yet, the pleadings of the establishment were noted. While we are not in agreement with the submission made on behalf of

the employees that the admission of the original application filed by the Tribunal should be understood as exercise of authority under sub-section (3) of Section 21 of the Act, we think that ends of justice require that the original application is considered by first deciding as to whether it is barred by limitation, going by the pleadings of the applicants, and whether there is any reason to condone the delay, if such request is made. This exercise can be done only by the Tribunal. Having been satisfied that the procedure adopted by the Tribunal does not stand, we are of the view that it would be inappropriate for us, sitting in jurisdiction under Article 227 of the Constitution, to go further and decide on the other contentions of the parties.

For the aforesaid reasons, preserving all contentions of both sides, this original petition is allowed setting aside the impugned order of the Tribunal and remitting the matter to the Tribunal for fresh consideration, in accordance with law, in terms of what is indicated above. Parties are directed to mark appearance before the Tribunal on 24th February of 2015.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.