

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

OP (CAT).No. 31 of 2015 (Z)

**AGAINST THE ORDER/JUDGMENT IN OA 1114/2012 of CENTRAL ADMINISTRATIVE
TRIBUNAL,ERNAKULAM BENCH DATED 25-07-2014**

PETITIONER(S):

- 1. UNION OF INDIA, AGED 54 YEARS,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
MINISTRY OF COMMUNICATIONS & INFORMATION TECHNOLOGY,
NEW DELHI-110 001.**
- 2. CHIEF POST MASTER GENERAL,
KERALA CIRCLE, TRIVANDRUM-695 101.**
- 3. SUPERINTENDENT OF POST OFFICES,
PATHANAMTHITTA POSTAL DIVISION, PATHANAMTHITTA.**

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENE

RESPONDENT(S):

- 1. K.SASEENDRAN PILLAI,
S/O.LATE G.KARUNAKARA KURUP, M.D.KAKKAKUNNU B O,
SOORANAD S O, DEPARTMENT OF POST,
RESIDING AT KOTTACHAKATHU KIZHAKATHIL,
ERAVICHIRA NADUVIL, PATHARAM P.O., KOLLAM DISTRICT,
PIN-690 522.**
- 2. ANIL KUMAR P.R.,
POSTMAN, C/O.POSTMASTER, ANGADI S O,
KOLLAM POSTAL DIVISION.**

**THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1- TRUE COPY OF THE OA NO.1114/2012 DATED 26/11/2012.

ANNEXURE A1- A TRUE COPY OF THE SELECT LIST ISSUED AS PER MEMO N.B-3/27/EXAM/2010 DATED 8/11/2010 ISSUED BY THE 3RD RESPONDENT.

ANNEXURE A2- A TRUE COPY OF THE APPOINTMENT MEMO NO.B2/POSTING/DATED 8/12/2010 ISSUED BY THE 3RD RESPONDENT.

ANNEXURE A3- A TRUE COPY OF THE APPLICATION DATED 18/11/2010 SUBMITTED BY THE APPLICANT ALONG WITH THE INFORMATION DATED 8/12/2010 ISSUED BY THE 3RD RESPONDENT.

ANNEXURE A4- A TRUE COPY OF THE REPRESENTATION DATED 18/2/2011 SUBMITTED BY THE APPLICANT BEFORE THE 3RD RESPONDENT.

ANNEXURE A5- A TRUE COPY OF THE JUDGMENT DATED 14/2/2011 IN OA.232/2010 OF THE HON'BLE CAT.

ANNEXURE A6- A TRUE COPY OF THE REPRESENTATION DATED 22/06/2012 SUBMITTED BY THE APPLICANT BEFORE 3RD RESPONDENT.

EXHIBIT P20: TRUE COPY OF REPLY STATEMENT FILED BY THE PETITIONERS BEFORE THE CAT, ERNAKULAM BENCH.

ANNEXURE R1- TRUE COPY OF RECRUITMENT RULES ISSUED BY DEPARTMENT OF POSTS NO.44-31/87-SPB-I DATED 06/07/1989.

ANNEXURE R2- TRUE COPY OF THE AMENDED RECRUITMENT RULES, 1994.

ANNEXURE R3- TRUE COPY OF LETTER NO.RECTT/12-2/2010 DATED 27/08/2010 ISSUED BY ASST. DIRECTOR (RECTT), DEPARTMENT OF POSTS.

ANNEXURE R4- TRUE COPY OF ORDER ISSUED BY THE HON'BLE SUPREME COURT OF INDIA IN SLP(C) NO.35223 OF 2012.

ANNEXURE R5- TRUE COPY OF ORDER ISSUED BY THE HON'BLE SUPREME COURT OF INDIA IN SLP(C) NO.1799 OF 2013.

ANNEXURE R6- TRUE COPY OF STAYORDER IN SLP(C)35223/2012 OF THE HON'BLE SUPREME COURT OF INDIA.

EXHIBIT P3- TRUE COPY OF ADDL. REPLY STATEMENT FILED BY THE RESPONDENT BEFORE THE CAT, ERNAKULAM BENCH IN OA. NO.1114/2012 DATED 01/10/2013.

EXHIBIT P4- TRUE COPY OF THE ORDER IN OA. NO.1114/2012 DATED 25/07/2014 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXHIBIT P5- TRUE COPY OF THE JUDGMENT IN OP(CAT) NO.139/2014 DATED 22/09/2014 OF THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

PA TO JUDGE

DG

**THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.**

O.P.(CAT).No.31 of 2015

Dated this the 19th day of February, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

We have heard the learned Assistant Solicitor General of India. This application invoking Article 227 of the Constitution of India is filed challenging the decision of the Central Administrative Tribunal in O.A.No.1114 of 2012, decided as per Exhibit P4. The learned Tribunal, following the judgment of this Court in O.P (CAT).Nos.1729 of 2013 and 1754 of 2011, held that the appointment from GDS/EDA to the category of postman is only by promotion and not by direct recruitment. That principle was stated by this Court affirming the Tribunal's earlier view in that regard. In this view of the matter, we do not find any legal infirmity or jurisdictional error in the Tribunal having concluded the original application in favour of the applicant. That position notwithstanding, we may also

note that the 4th respondent in the original application had challenged Exhibit P4 decision of the Tribunal before this Court. That also stands dismissed. No question as between the applicant and the 4th respondent being any more available for consideration, in view of that judgment, we do not find that the impugned judgment will result in injustice to the department which necessitates the exercise of authority under Article 227 of the Constitution of India. This way also, this original petition is only to fail.

In the result, this original petition is dismissed in limine.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

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