

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

OP (CAT).No. 170 of 2015 (Z)

AGAINST THE ORDER IN OA 1187/2012 of CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH DATED 18.05.2015

PETITIONERS :

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT OF INDIA, DEPARTMENT OF POSTS, NEW DELHI-110 001.
2. THE CHIEF POSTMASTER GENERAL
KERALA POSTAL CIRCLE, THIRUVANANTHAPURAM.
3. THE SUPERINTENDENT OF POST OFFICES,
ALAPPUZHA DIVISION, MAVELIKKARA.

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA

RESPONDENTS:

1. V.PEETHAMBARAN, AGED 59 YEARS, S/O.VASU, MULTI TASKING STAFF
KAYAMKULAM HEAD POST OFFICE, RESIDING AT KOTTUM THEKKETHIL,
KALLIKKAD, ARATTUPUZHA P.O.,ALAPPUZHA-690 535.
2. N.THULASI, W/O.SUKUMARAN K., AGED 44 YEARS, MULTI TASKING STAFF
KAYAMKULAM HEAD POST OFFICE, RESIDING AT MANUNILAYAM
NAGIARKULANGARA P.O., ALAPPUZHA-690 513.
3. T.N.LEELAMMA, AGED 58 YEARS, W/O.NANU, MULTI TASKING STAFF
KAYAMKULAM HEAD POST OFFICE, RESIDING AT NADESSERIL
OLAKETTIYAMBALAM P.O., ALAPPUZHA - 690 510.
4. G.SUDHARMA, W/O.GOPALAN, AGED 53 YEARS, MULTI TASKING STAFF
KAYAMKULAM HEAD POST OFFICE, RESIDING AT CHAKKAMMURI
VADAKKEKANDATHIL, KEELIKKAD P.O., ALAPPUZHA-690 508.
5. RAVI.K., S/O.KUTTI, AGED 56 YEARS, MULTI TASKING STAFF
MAVELIKKARA HEAD POST OFFICE
RESIDING AT HARIJAN COLONY, BLOCK NO.5, UMBERANADU
MAVELIKKARA P.O.,ALAPPUZHA 690 101.
6. A.RAMANKUTTY, AGED 58 YEARS
S/O.AZHAKAN, MULTI TASKING STAFF, HARIPPAD POST OFFICE
RESIDING AT MALAYIL KIZHAKKETHIL
KARUVATTANORTH P.O., ALAPPUZHA-690 517.

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 26-10-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS & ANNEXURES :

EXT.P1.TRUE COPY OF THE OA NO.1187/2012 DATED 18/12/2012 FILED BY THE RESPONDENT BEFORE THE HONOURABLE CAT,ERNAKULAM BENCH.

ANNEXURE A1 : COPY OF ORDER NO.GR.D/APPT/DLGS DATED 21.7.2010 ISSUED BY THE 3RD RESPONDENT IN OA

ANNEXURE A2 : COPY OF THE ORDER NO.B2/GROUP D/SN DATED 11.3.2011 ISSUED FOR THE 3RD RESPONDENT IN OA

ANNEXURE A4 : COPY OF ORDER NO.B2/GR.D/SN DATED 3.7.2012 ISSUED BY THE 3RD RESPONDENT

ANNEXURE A3 : COPY OF REPRESENTATION DATED 3.4.2012 SUBMITTED BY THE 1ST APPLICANT IN OA

ANNEXURE A5 : COPY OF ORDER NO.B2/GRD/SN DATED 28.06.2012 ISSUED FOR THE 3RD RESPONDENT IN OA

ANNEXURE A6 : COPY OF REPRESENTATION DATED 23.8.2012 SUBMITTED BY THE 1ST APPLICANT IN OA

EXT.P2.TRUE COPY OF REPLY STATEMENT FILED BY THE PETITIONERS

ANNEXURE R1 : COPY OF THE ORDER DATED 28.9.2011 PASSED IN OA NO.145/2010

ANNEXURE R2 : COPY OF THE ORDER DATED 17.6.2011 PASSED IN OA NO.903/2009

EXT.P3.TRUE COPY OF REJOINDER DATED 2/1/2014 FILED BY THE RESPONDENT IN OA.

EXT.P4.TRUE COPY OF ADDITIONAL REPLY STATEMENT FILED BY THE PETITIONERS

EXT.P5.TRUE COPY OF THE ORDER IN OA NO.1187/2012 AND 18/5/2015 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

**K. SURENDRA MOHAN
&
SHAJI P.CHALY, JJ.**

O.P.(CAT) No.170 of 2015

Dated this the 26th day of October, 2015.

J U D G M E N T

Surendra Mohan, J.

The respondents in O.A.No.1187 of 2012 of Central Administrative Tribunal, Ernakulam Bench have filed this original petition challenging Ext.P5 order by which, the Tribunal has directed the petitioners to fix the pay of the respondents (applicants before the Tribunal) from the dates of their actual joining of duty in the promoted post, reckoning the notional increments due from the dates of their notional appointment.

2. The petitioners were working as Gramin Dak Sevaks (GDS) who were eligible to be promoted as Group D Staff/Multi Tasking Staff as per the recruitment rules. Vacancies in Group D cadre were left unfilled since 2004 on the ground that, appointment as GDS was to be made by direct recruitment and such appointment could be made only after vacancies were cleared by the Screening Committee. However, consequent to the decision of this Court to the effect that, the appointments were not necessary to be cleared by the Screening Committee, the appointments of the respondents were also made.

Respondents 1 to 3 were appointed to the vacancies in 2006 and 2008. The 4th respondent was appointed in the vacancy of 2009, while respondents 5 and 6 were appointed to the vacancies of 2005 and 2007 respectively. Though the appointments were stated to have been made retrospectively from the dates of occurrence of the respective vacancies, the notional service was directed to be counted only for pension. The respondents were aggrieved by the above rider and therefore, they challenged the same before the Central Administrative Tribunal.

3. The Central Administrative Tribunal took note of the fact that, the issue had been covered by the decision in O.A.No.649 of 2011 and that, the said order had been confirmed by this Court in O.P(CAT)No.4162 of 2013. Since the issue was covered, the OA has been allowed. The present original petition is filed against the order of the Central Administrative Tribunal.

4. We have heard the learned Assistant Solicitor General of India Sri.N.Nagaresh and Adv.Sri.M.R.Hariraj, who appears for the respondents.

5. In view of the fact that, the issue stands covered by the judgment of this Court in OP.(CAT)No.4162 of 2013, we do not

find any grounds to admit this original petition or to grant any of the reliefs sought for.

For the above reasons, this original petition is dismissed.

Sd/-
K. SURENDRA MOHAN, JUDGE

Sd/-
SHAJI P.CHALY, JUDGE

AV