

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

OP(KAT).No. 3226 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN TA 2321/2012 of KERALA
ADMINISTRATIVETRIBUNAL, THIRUVANANTHAPURAM

PETITIONER(S)/APPLICANT IN THE T.A.:

PRAVEEN A.
GURUKKALEDATH HOUSE, T.M.C. 252/50
NEAR JUDGES BUNGALOW, THALASSERY-670101.

BY ADV. SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENT(S)/RESPONDENTS IN THE T.A.:

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

2. COMMISSIONER OF COMMERCIAL TAXES,
PUBLIC OFFICE BUILDINGS, THIRUVANANTHAPURAM-695033.

3. KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY SECRETARY
KERALA PUBLIC SERVICE COMMISSION, PATTOM
THIRUVANANTHAPURAM-695004.

R1 BY ADV. GOVERNMENT PLEADER
R3 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION A/W OP(KAT) 296/2015 ON 16-09-2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE I: TRUE COPY OF THE ORDER DT.29.6.2002 IN T.A.MP:2321 OF 2012 OF KAT

ANNEXURE II: -DO- OF WPC 1681/2011 - (TA NO: 2321 OF 2012 ALONG WITH THE AFFIDAVIT AND EXTS ANNEXED THERETO

P1. TRUE COPY OF THE NOTIFICATION ISSUED BY THE PSC IN EXTRA ORDINARY GAZETTE DT.6.3.2006 - CATEGORY NO:2/2006

P2. TRUE COPY OF THE RANK LIST DATED 31-7-2007 FOR THE POST OF SALES TAX OFFICER ON RS. 6500-10550 IN COMMERCIAL TAX DEPT.

P3. TRUE CPY OF THE NEWS ITEM APPEARED IN THE P.S.C BULLETIN DATED 1-7-2010.

P4. TRUE COPY OF THE G.O.(P) NO. 43/2009/SWD DATED 13-10-2009.

P5. TRUE COPY OF THE G.O.(P) NO. 31/2008/SWD DATED 19-5-2008.

P6. TRUE COPY OF THE G.O. (P) NO. 46/2008/SWD DATED 19-7-2008.

P7. TRUE COPY OF THE TRUE COPY OF THE REPRESENTYATION DATED 25-11-10.

ANNEXURE III -DO- OF THE COUNTER AFFIDAVIT FILED BY THE 3RD RESPONDENT KPSC ALONG WITH EXHIBITS ANNEXED THERETO

EXT.R3(A) -DO- OF THE ORDER DT.26.5.2011 IN WPC 1681/2011L

RESPONDENT(S) ' EXHIBITS

EXT.R3(A): - TRUE COPY OF CIRCULAR NO:21/2008 DT.19.8.2008

EXT.R3(B) -DO- CIRCULAR NO: 22/08 DT.15.9.2008

JJ

/TRUE COPY/

P.S.TO JUDGE

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

O.P(KAT) NOS.3226 OF 2013 &
296 of 2015

Dated this the 16th September, 2015.

JUDGMENT

Surendra Mohan, J.

Both original petitions challenge orders of the Kerala Administrative Tribunal dismissing original applications filed by the petitioners. They are disposed of together since the points raised are common.

2. The petitioner in OP(KAT) 3226/2013 was a candidate included in the rank list published by the Kerala Public Service Commission on 31.7.2007, for appointment to the post of Sales Tax Officer in the Commercial Taxes Department. The rank list expired on 30.1.2012.

3. The petitioner in O.P.296/2015 was included in a rank list published by the Kerala Public Service Commission.

The said rank list also has expired on 29.3.2015 on the publication of a new rank list on 30.3.2015.

4. The petitioners in these cases had approached the Kerala Administrative Tribunal seeking orders directing their appointments on the basis of their ranking in the rank list, under the 3% quota reserved for physically handicapped persons. The Tribunal has declined relief to the petitioners for the reason that, the rank list in which they were ranked, had expired.

5. According to the counsel for the petitioners the vacancies are required to be assessed and calculated for the purpose of granting 3% reservation to physically handicapped persons, in accordance with the provisions of the Central Act. Since the said exercise had not been adopted, it is contended that the petitioners are entitled to the reliefs sought for by them. The contentions of the counsel for the petitioners are opposed by the Standing Counsel for the Public Service Commission as well as the learned Govt. Pleader.

6. Having considered the contentions advanced before us, we do not find any grounds to interfere with the orders of the Kerala Administrative Tribunal. Admittedly, the respective lists in which the petitioners were ranked, have expired. In the case of the petitioner in O.P.(KAT) 296/2015 a new list has been published on 30.3.2015. According to the counsel for the Public Service Commission, the process of assessing the number of vacancies available for appointment of physically handicapped persons in compliance with the mandate of the Central Act is in process. The filling up of the vacancies so available would be undertaken by way of a special recruitment. The petitioners would have to await the special recruitment that is contemplated under the Act with the publication of a list of the existing vacancies. We hope that the said exercise would be undertaken and completed expeditiously, so as to minimise the prejudice that would be caused to the petitioners who are likely to be overaged. The Government shall take all necessary action in

this regard, expeditiously. With the above observations
these original petitions are dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

Sd/-
SHAJI P.CHALY
Judge

jj