

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

OP(KAT).No. 3650 of 2013 (Z)

AGAINST THE ORDER IN OA 996/2013 of KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM DATED
08-07-2013.

PETITIONER(S)/APPLICANT:

K.SADANANDAN, AGED 53 YEARS,
S/O.KESAVAN, DRIVER GR.II,
OFFICE OF THE ENQUIRY COMMISSIONER & SPECIAL JUDGE
THIRUVANANTHAPURAM-695 035,
RESIDING AT VELIYATHUVILA VEEDU, PAPPANAMCODE,
PAPPANAMCODE ESTATE.P.O.,
THIRUVANANTHAPURAM-695 019.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY
TO GOVERNMENT,
VIGILANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE ENQUIRY COMMISSIONER & SPECIAL JUDGE,
THIRUVANANTHAPURAM. 695 001.

BY SENIOR GOVERNMENT PLEADER SRI. VIJU THOMAS

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN
FINALLY HEARD ON 09-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

OP(KAT).No. 3650 of 2013 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT. P1- TRUE COPY OF THE O.A.NO.996/2013 FILED BY THE
PETITIONER BEFORE THE HON'BLE KERALA ADMINISTRATIVE
TRIBUNAL.

EXT.P2- TRUE COPY OF THE ORDER DATED 8.7.2013 OF THE
HON'BLE KERALA ADMINISTRATIVE TRIBUNAL IN
O.A.NO.996/2013.

RESPONDENT(S) ' EXHIBITS

NIL

//true copy//

P.S. to Judge

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

O.P. (KAT) No.3650 of 2013

Dated this the 9th day of March, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

The petitioner challenges the refusal of the Kerala Administrative Tribunal to come to his aid in pursuance of his request for regularisation in service as Driver Grade-II.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. Annexure-A1 in Ext.P1 evidences that the petitioner was sponsored by the Divisional Employment Officer of the Divisional Employment Exchange, Thiruvananthapuram, for the post of Driver Grade-II in the Office of the Enquiry Commissioner and Special Judge. He reported for duty in the forenoon of

3/8/1992. He was permitted to join duty accordingly. There is nothing on record to show that there was any break of continuity in discharge of his duties and responsibilities; even, “an artificial break” which is normally a technique resorted to, to show that there is no continuity of service. He has, ultimately, been given what is called 'the humanitarian consideration of being permitted to continue on provisional basis'. The fact of the matter remains that from 3/8/1992, he was intricately connected, as a driver, with a sensitive institution, namely, the Office of the Enquiry Commissioner and Special Judge. The quality of official responsibilities which he would have discharged and the continuity of his labour should necessarily be accounted to his credit having regard to the law laid in Jacob v. Kerala Water Authority (1990 (2) KLT 673); Secretary, State of Karnataka and others v. Umadevi (3) and others (2006 (4) SCC 1) and series of other judgments which unequivocally support

his eligibility for regularisation. It is on record among the Exhibits in this case that similar other persons were also given such benefits. We would have taken a different view had it been a case where an Employment Exchange nominee who was not having a regular appointment had been holding on, adverse to the interest of any person, who was brought available for direct recruitment. Here is a case where continuity of employment and labour is well established. There is nothing on record to infer to the contrary. That being so, on the totality of the constitutional and statutory rights of the petitioner, we are inclined to take the view that he is eligible to be regularised in service at the earliest so that he will be able to enjoy the fruits of his labour at least in the matter of retiral benefits by counting the length of service in terms of this judgment. It is so declared. The respondents will do the needful and issue consequential orders regularising the petitioner in service at the earliest.

To pave way for this, the order of the Tribunal is set aside and the Original Petition is ordered in terms of the declarations and directions above made.

This Original Petition is ordered accordingly.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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//true copy//

P.S. to Judge