

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

OP (CAT).No. 167 of 2014 (Z)

OA 826/2012 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

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PETITIONER(S)/RESPONDENTS IN O.A:

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF POSTS
NEW DELHI 110001**
- 2. THE DIRECTOR GENERAL (POSTS),
DAK BHAVAN, SANSAD MARG, NEW DELHI 110001**
- 3. THE CHIEF POST MASTER GENERAL
KERALA CIRCLE, THIRUVANANTHAPURAM-695033**
- 4.. THE POST MASTER GENERAL,
NORTHERN REGION, KERALA CIRCLE, KOZHIKODE 673011**

**BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SR.PANEL COUNSEL FOR
CENTRAL GOVERNMENT**

RESPONDENT(S)/APPLICANT IN OA:

**A.MUKUNDAN, AGED 60 YEARS
S/O. KUMARAN A.K, SUPDT OF POST OFFICES (RETD)
THALASSERY DIVISION, "USHAS", EDAYANNUR 670595
PATTANNUR P.O**

**R1 BY ADV. SRI.MARTIN G.THOTTAN
R1 BY ADV. SMT.R.JAGADA BAI**

**THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 15-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (CAT).No. 167 of 2014 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE O.A NO 826/2012

**EXHIBIT P2 : TRUE COPY OF THE REPLY STATEMENT DATED 19-02-2013 IN OA NO
826/2012**

**EXHIBIT P3 : TRUE COPY OF THE REJOINDER FILED BY THE RESPONDENT IN O.A
NO. 826/2012**

**EXHIBIT P4: TRUE COPY OF THE ADDITIONAL REPLY STATEMENT DATED 27-08-2013
IN O.A. NO. 826/2012**

**EXHIBIT P5: TRUE COPY OF THE ADDITIONAL REJOINDER FILED BY THE
RESPONDENT IN O.A NO 826/2012**

**EXHIBIT P6 :TRUE COPY OF THE ORDER DATED 22-07-2014 OF CAT, ERNAKULAM
BENCH IN O.A NO 826/2012**

RESPONDENT(S)' EXHIBITS: NIL

OKB

//TRUE COPY//

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.P. (CAT) No.167 of 2014

Dated this the 15th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned senior panel counsel for Central Government quite in extenso, in support of the original petition filed invoking Article 227 of the Constitution of India.

2. The establishment challenges the decision of the Central Administrative Tribunal, Ernakulam Bench, whereby it was upheld that the respondent, who worked as a Superintendent of Post Offices, was entitled to count the entire period of his service as against that post for all purposes, notwithstanding that initially the promotion was called by the Department as an ad hoc one.

3. We have also heard the learned counsel for the respondent, who points out that the issue raised by the Department stands covered by the Bench decision of this Court in O.P.(CAT) No.1718 of 2013, which dealt with the case of an officer, who was placed as Income Tax Officer by promotion on an ad hoc basis. The Central Administrative Tribunal, in that case, had followed the decision of the Madras High Court. In O.P.(CAT) No.1718 of 2013, this Court independently considered a similar

case and held that when posting of a person by promotion was to make that individual officiate in a particular grade with effect from a particular date, on which date that person assumes charge in the higher post, it makes no difference as regards the quality of such promotion and the mere statement by the establishment that such promotion was purely on ad hoc basis is of no consequence. As in O.P.(CAT) No.1718 of 2013, in this case as well, the Department has no case that the employee did not or was not required to discharge the duties and responsibilities attached to the post to which the officer was promoted on an ad hoc basis, in the interest of the establishment. We are, therefore, inclined to follow the judgment in O.P.(CAT) No.1718 of 2013 and hold that the learned Tribunal has correctly decided the eligibility of the respondent to the relief granted by it. We see no ground to interfere with the impugned order in exercise of the jurisdiction under Article 227 of the Constitution of India at the instance of the establishment. This original petition fails.

In the result, this original petition is dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.