

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

OP(KAT).No. 6 of 2015 (Z)

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AGAINST THE ORDER/JUDGMENT IN OA 346/2013 of KERALA ADMINISTRATIVE TRIBUNAL,  
THIRUVANANTHAPURAM DATED 04-02-2014

PETITIONER(S):

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1. STATE OF KERALA,  
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT,  
LAND REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM, KERALA 695 001.
2. THE TAHASILDAR,  
THALAPPALLY TALUK, WADAKKANCHERRY, KERALA 679 562.
3. THE DISTRICT COLLECTOR,  
THRISSUR, KERALA 680 001.
4. THE JOINT COMMISSIONER,  
LAND REVENUE, PUBLIC OFFICE BUILDING,  
THIRUVANANTHAPURAM, KERALA 695 033.
5. VILLAGE OFFICER, KOTTAPPURAM GROUP,  
KUNDANNOOR P.O, THRISSUR, KERALA 680 590.

BY SRI.S.JAMAL, GOVERNMENT PLEADER

RESPONDENT(S):

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1. PUSHPA P.J.,  
W/O.PAUL, CHEEMN HOUSE, PALAYAR,  
P.O CHAVAKKAL, THRISSUR, KERALA 680 006.
2. AMBIKA M,  
D/O. LEELAVATHY AMMA, CASUAL SWEEPER,  
KONDAZHAY-MAYANNOOR GROUP VILLAGE P.O, KONDAZHAY,  
THRISSUR 680 418. RESIDING AT MADATHIPADATH HOUSE,  
KONDAZHAY P.O, PARAMELPPADIPARAMELPPAD, KERALA-0

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR  
ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

DG

**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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**EXHIBIT P1: A TRUE COPY OF O.A NO 346/2013.**

**ANNEXURE A1: COPY OF GO(P) NO.501/2005/FIN DATED 25.11.2005.**

**ANNEXURE A2: COPY OF THE APPLICATION DATED 18.01.2007.**

**ANNEXURE A3: COPY OF THE SWEEPING AREA REPORT DATED 25.03.2010  
SUBMITTED BY ASSISTANT ENGINEER, WADAKKANCHERRY.**

**ANNEXURE A4: COPY OF THE LETTER DATED 06.12.2011.**

**ANNEXURE A4(a): COPY OF THE TRANSLATION OF ANNEXURE A4.**

**ANNEXURE A5: COPY OF THE INTERIM ORDER DATED 11.10.2012.**

**ANNEXURE A6: COPY OF THE ORDER DATED 14.11.2012.**

**ANNEXURE A7: COPY OF THE LETTER OF PWD ENGINEER ALONG WITH  
CALCULATION STATEMENT.**

**ANNEXURE A7(a): COPY OF THE TRANSLATION OF ANNEXURE A7.**

**ANNEXURE A8: COPY OF THE PROPOSAL OF REGULARISATION SENT ON  
29.09.2010 BY 2ND RESPONDENT.**

**ANNEXURE A9: COPY OF THE PROPOSAL OF REGULARISATION SENT ON  
22.02.2012.**

**ANNEXURE A9(a): COPY OF THE ENGLISH TRANSLATION OF ANNEXURE A9.**

**ANNEXURE A10: COPY OF THE CERTIFICATE DATED 15.01.2013 ALONG WITH  
THE SKETCH.**

**ANNEXURE A10(a): COPY OF THE TRANSLATION OF CERTIFICATE DATED  
15.01.2013, ALONG WITH THE SKETCH.**

**ANNEXURE A11: COPY OF THE COMMUNICATION DATED 29.09.2010 OF 3RD  
RESPONDENT, REFERRED IN ANNEXURE A4.**

**ANNEXURE A11(a): COPY OF THE TRANSLATION OF COMMUNICATION DATED  
29.09.2010 OF 3RD RESPONDENT, REFERRED IN ANNEXURE A4.**

**ANNEXURE A12: COPY OF THE ORDER DATED 21.01.2013.**

**EXHIBIT P2: A TRUE COPY OF THE REPLY STATEMENT FILED BY THE 1ST  
RESPONDENT DATED 24-07-2013.**

**EXHIBIT P3: A TRUE COPY OF THE ORDER IN O.A NO 346/2013.**

**EXHIBIT P4: A TRUE COPY OF THE G.O(RT) NO 3721/2014/RD DATED 05-08-2014.**

**EXHIBIT P5: A TRUE COPY OF THE G.O(RT) NO 4453/2014/RD DATED 18-09-2014.**

**RESPONDENT(S)' EXHIBITS - NIL**

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**//TRUE COPY//**

**PA TO JUDGE**

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

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O.P.(KAT).No.6 of 2015  
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Dated this the 7<sup>th</sup> day of January, 2015

**J U D G M E N T**

**Thottathil B.Radhakrishnan, J.**

1. We have heard the learned senior Government Pleader quite in extenso.
  
2. The State Government challenges a decision of the Kerala Administrative Tribunal, ordering retrospective regularization of the service of the 2<sup>nd</sup> respondent herein from 27.5.2010. That was in the category of sweeper. The moot point was whether the sweeping area was above 100 sq. meters or below 100 sq. meters. As is reflected from paragraph 6 of the impugned order of the Tribunal, advertence was made to Annexure A3 and it was noted that even without the computer room the sweeping area was 100.01 sq. meters. That being so, the Tribunal held that the employee concerned was entitled to such regularization with retrospective effect as provided in Annexure A1 order. The question whether a particular room has a particular area or not is primarily a question of fact. The Tribunal relied on Annexure A3 document prepared by the Assistant Engineer. Even if the certifying officer is the Chief Technical Examiner, we do not see

any jurisdictional infirmity in the Tribunal having accepted the contents of the report of the Assistant Engineer because it reflects the measurements taken by a person having knowledge, competence and eligibility to take the measurements. That being so, we see no ground to come to the assistance of the State Government against a part time sweeper to revoke the order issued by the Administrative Tribunal after an appropriate adjudication in terms of the provisions of the Administrative Tribunals Act. Though the Chief Technical Examiner may be the final authority, as far as the Government is concerned, in course of adjudication it will be open to the adjudicating authority like the Courts and Tribunals, to look into all materials and to come to its own independent appropriate conclusion. This having been done, we see no ground to interfere on that ground either.

3. For the aforesaid reasons, this original petition fails.

In the result, this original petition is dismissed.

Sd/-  
**(THOTTATHIL B.RADHAKRISHNAN, JUDGE)**

Sd/-  
**(K.HARILAL, JUDGE)**

//TRUE COPY//

P.A TO JUDGE

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