

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

OP(KAT).No.28 of 2015 (Z)

AGAINST THE ORDER IN OA 502/2013 of KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM DATED 28-08-2014

PETITIONER(S)/APPLICANTS::

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1. NARAYANAN A.K., AGED 50 YEARS
S/O.CHITHRAN NAMBOOTHIRI, AMETTUR KUNNATH MANA
VATTANKULAM, EDAPPAL
ASSISTANT DIRECTOR OF AGRICULTURE
NANNAMMUKKU KRISHI BHAVAN, NANNAMMUKKU PO
MALAPPURAM DISTRICT, KERALA - 679 576
NOW WORKING AS DISTRICT MAGAGER, KERALED, MALAPPURAM.
 2. KAREEM P.K.,
S/O.KUNJUMOIDU, PARAKKAL HOUSE, CHERUTHURITHY PO
THRISSUR, ASSISTANT DIRECTOR OF AGRICULTURE
AMBALAPPARA KRISHI BHAVAN, AMBALAPPARA PO
PALAKKAD DISTRICT
NOW WORKING AS ASSISTANT DIRECTOR OF AGRICULTURE
MANNARKKAD PO, PALAKKAD.
 3. JASMINE M.,
W/O.KAREEM P.K., PARAKKAL HOUSE, CHERUTHURITHY PO
THRISSUR, ASSISTANT DIRECTOR OF AGRICULTURE
ANANGANADI KRISHI BHAVAN, ANANGANADI PO, PALAKKAD
KERALA - 679 531
NOW WORKING AS SENIOR AGRICULTURAL OFFICER
FERTILIZER QUALITY CENTRAL LAB, PATTAMBI, PALAKKAD.
 4. GOPIDAS M.P.,
S/O.M.M.PARAMESWARAN, MULLANGATH HOUSE, PERINJANAM PO
THRISSUR, ASSISTANT DIRECTOR OF AGRICULTURE
SEED DEVELOPMENT OFFICE, CHAVAKKAD PO, THRISSUR
KERALA-680 686
NOW WORKING AS ASSISTANT DIRECTOR OF AGRICULTURE
DEPARTMENT OF AGRICULTURE, MATHILAKAM
THRISSUR - 680 685.

5. PRASAD MATHEW A.T.,
S/O.THOMAS A.C., AYKARAKUDIYIL HOUSE, CHUVANNAMANNU
THRISSUR, AGRICULTURAL OFFICER, VANDAZHI KRISHI BHAVAN
VANDAZHI PO, PALAKKAD, KERALA - 680 652
NOW WORKING AS FARM SUPERINTENDENT
INTEGRATED SEED FARM, ERUTHEMPATHY, PALAKKAD DISTRICT.
6. SIVADASAN A.K.,
S/O.S.S.KRISHNANKUTTY, AATTUPURATH HOUSE, MOORKINIKKARA
KUZHUKKULLY PO, THRISSUR, AGRICULTURAL OFFICER
NENMANNIKKARA KRISHI BHAVAN, PALIYEKKARA PO, THRISSUR
KERALA - 680 751
NOW WORKING AS SENIOR AGRICULTURAL OFFICER
CENTRAL ORCHARD, PATTAMBI, PALAKKAD DISTRICT.
7. MATHEW OOMMEN,
S/O.OOMMEN, PADIKKAMANNIL HOUSE, CHEMBUKKAVU PO
THRISSUR, AGRICULTURAL OFFICER, OLLUR KRISHI BHAVAN
OLLUR PO, THRISSUR, KERALA - 680 306
NOW WORKING AS DISTRICT MANAGER
ASSISTANT DIRECTOR OF AGRICULTURE, KERALED
THRISSUR - 680 004.

BY ADVS.SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN

RESPONDENT(S)/RESPONDENTS::

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY
AGRICULTURAL DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM, KERALA - 695 001.
2. DIRECTOR OF AGRICULTURE,
DIRECTORATE OF AGRICULTURE, VIKAS BHAVAN
THIRUVANANTHAPURAM, KERALA - 695 033.
3. SUSHAMA.S.,
ASSISTANT PRINCIPAL, AGRICULTURAL OFFICER, PRINCIPAL
AGRICULTURAL OFFICE, CIVIL STATION, VIDYA NAGAR
KASARGOD, KERALA - 671 123.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE OA NO.502/2013 ALONG WITH ANNEXURE A1 TO A20 ON THE FILES OF THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXT.P2: COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE FIRST RESPONDENT IN O.A.502/2013.

EXT.P3: TRUE COPY OF THE ORDER DATED 28.8.2014 IN O.A.NO.502/2013 OF THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS: NIL

// TRUE COPY //

P.A TO JUDGE.

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 9th day of February, 2015.

J U D G M E N T

Antony Dominic, J.

The applicants in O.A.No.502/2013 on the file of the Kerala Administrative Tribunal are the petitioners. They filed the O.A challenging Annexure-A20 order issued by the 2nd respondent granting seniority to the 3rd respondent reckoning the period spent by her on leave without allowance also. The petitioners also challenged Annexures-A7 & A8 which are proceedings consequential to Annexure-A20. By Ext.P3, the Tribunal dismissed O.A mainly relying on Annexure-A16 judgment of this Court in W.P.(C).No.24046/2003 and Annexure-A17 judgment in W.A.No.5/2009 and Annexure-A19 order of the Supreme Court passed in S.L.P filed against the judgment in Annexure-A17 judgment. It is this order of the Tribunal which is challenged before us.

2. We heard the learned Senior Counsel for the petitioners and learned Government Pleader appearing for respondents 1 & 2.

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3. We notice that by Annexure-A16 judgment in W.P (C).No.24046/2003, this Court disposed of the said writ petition filed by the 3rd respondent declaring that she shall be entitled to get seniority counting her service from the effective date of advice for appointment, namely, 1.10.1988. This judgment was confirmed by a Division Bench of this Court in Annexure-A17 judgment dismissing W.A.No.5/2009. The appellants in the Writ Appeal sought review of Annexure-A17 judgment by filing R.P.No.693/2003 and the said review petition was dismissed by Annexure-A18 order. The State also filed S.L.P before the Apex Court. That was dismissed by Annexure-A19 by the Apex Court on the ground of delay as well as on merits.

4. This therefore means that Annexure-A20 order granting seniority to the 3rd respondent was issued by the official respondents in compliance of the aforesaid judgments of this Court. In such a case, even if the petitioners are aggrieved by Annexure-A20, they cannot challenge Annexure-A20, but, should seek their reliefs against the judgments pursuant to which the said order was issued. This principle has

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been laid down by a Division Bench of this Court in **Ramachandran v. Food Corporation of India** 1989 2) KLT 112.

5. It is true that the learned Senior Counsel relied on the judgments of this Court in W.A.No.359/2011 and O.P(KAT) 4145/2012. But, what we notice is that the 3rd respondent was not a party to the said judgments and therefore, even if these judgments reflected a departure from the view taken in Annexure-A16 judgment, it will not in any manner affect the rights of the 3rd respondent under Annexure-A16 judgment. In such circumstances, the Tribunal was fully justified in dismissing the O.A filed by the petitioners.

The O.P(KAT) fails and accordingly, dismissed.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

bkn/-