

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

OP(KAT).No. 41 of 2015 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 1590/2014 of KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM DATED 19-11-2014

PETITIONER(S)/RESPONDENT:

THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY
OFFICE OF THE PUBLIC SERVICE COMMISSION, PATTOM P O
THIRUVANANTHAPURAM-695 004.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

RESPONDENT(S)/APPLICANT:

MEENAMBIKA P.A.
W/O.SRI SREEKUMARAN S, PADMAVIHAR, MULLOOR
VIZHINJAM, MULLOOR P O, THIRUVANANTHAPURAM-695 521.

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP
FOR ADMISSION ON 16-02-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

OP(KAT).No. 41 of 2015 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: COPY OF THE OA 1590 OF 2014 ALONG WITH ANNEXURES

P2: COPY OF REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENT

P3: COPY OF REJOINDER SUBMITTED BY THE APPLICANT WITH ANNEXURES

P4: COPY OF THE ORDER DTD 19/11/2014 IN THE ABOVE ORIGINAL
APPLICATION

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

.....
OP(KAT) No.41 of 2015
.....

Dated this the 16th day of February, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned legal retainer to the Kerala Public Service Commission, quite in extenso.
- 2.Respondent–applicant applied for being considered to be recruited to the post of care taker (woman) notified for appointment in the Social Welfare Department. She cleared the written test. Controversies arose in relation to production of experience certificate which is due to be produced in the prescribed format on a given date. Initially, she is stated to have applied for further time to produce it. Later on, she moved the Central Administrative Tribunal asserting that she actually produced the experience certificate in the proper format and the same was not acted upon by the PSC. When the PSC refuted her allegation of having presented the experience certificate in the

prescribed format, she came out with a story that the said certificate was presented before the appropriate officer in the presence of one Arun Manohar, a PSC employee and a person known to the respondent. While the PSC took the stand that the said allegation of the applicant was thoroughly examined by taking statements of different employees of the PSC, the Tribunal, ultimately, took the view that in the absence of any other remedy available to the applicant for factual adjudication, the matter has to be decided on preponderance of probabilities. Proceeding so, the learned Tribunal took the view that insofar as Annexure-A6 is not disputed by the PSC as one not received, it has necessarily to be taken that in the common course of human conduct, the applicant would not have waited for seven to eight months to turn round to accept that she had presented her experience certificate. We see from the records that the applicant, a woman, was then 39 or 40 years of age, and having her last opportunity to enter into public service, she is aspiring to become a care taker in the Social Welfare Department.

3. On the totality of the facts and circumstances, we are of the view that she would have clinged on to the last straw available to ensure that she does not lose that opportunity of public employment. In the wholesomeness of things, as discernible from the facts and materials on record, we are of the view that the conclusions arrived at by the Tribunal are not wholly unavailable on record and, therefore, visitation by this Court to set aside that finding in exercise of authority under Article 227 of the Constitution of India is not called for, at the instance of the PSC, though we see abundant apprehension on behalf of the PSC that such situations, if repeatedly occurring in the PSC, would be ruinous for the PSC as well as for the persons aspiring for public employment. Even if we were to take that the incident in hand is a solitary one and not expected to be repeated, that too with the junction of PSC employees, we think that there is no injustice working as against the PSC in the case in hand, taking it as a peculiar situation in which the Tribunal had rendered its decision

on the merits. We see no ground to interfere in exercise of authority under Article 227 of the Constitution of India. This original petition fails.

In the result, this original petition is dismissed. We, however, clarify that this judgment will not stand in the way of any person claiming appropriate slot on the basis of the net result of the directions of the Tribunal.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)