

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

OP(KAT).No. 89 of 2015 (Z)

**AGAINST THE ORDER/JUDGMENT IN TA 4038/2012 of KERALA
ADMINISTRATIVETRIBUNAL, THIRUVANANTHAPURAM DATED 31-12-2014**

PETITIONER(S)/APPLICANTS:

1. **ANANDAN T AGED 32 YEARS,
S/O THANKAPPAN, T.C. 22/442,
KONCHIRAVILA, MANACAUD PO,
THIRUVANANTHAPURAM 695009.**
2. **ANULAL, S/O.MADHU, LAL SADANAM,
POONKODU, BHAVAVATHINADA PO,
BALARAMAPURAM, PALLICHAL,
THIRUVANANTHAPURAM 695501.**

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT(S)/RESPONDENTS:

1. **THE DIRECTOR, DIRECTORATE OF MEDICAL EDUCATION,
MEDICAL COLLEGE PO,
THIRUVANANTHAPURAM 695011.**
2. **STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM 695001.**
3. **PUBLIC SERVICE COMMISSION REPRESENTED BY ITS
SECRETARY, THIRUVANANTHAPURAM 695004.**
4. **RAJALAKSHMI L.S., AGED 29 YEARS,
D/O.SADASIVAN NAIR, RESIDING AT DWARAKA,
10/720(2), MANNAMOOLA,PEROORKADA,
THIRUVANANTHAPURAM 695005.**
5. **SINDHU R.S., AGED 32 YEARS,
SHIBU BHAVAN, OOTTUKUZH, I,
MANGALATHKONAM, KATTACHAL KUZHI PO,
BALARAMAPURAM (VIA),
THIRUVANANTHAPURAM 695509.**

6. RETHI C., AGED 30 YEARS,
D/O.NADESAN, 'AMBADIYIL',
KATTUNADU ROAD, MANGALATHU KONAM,
KATTACHALKUZHI PO,
THIRUVANANTHAPURAM 695509.
7. SANDHYALEKSHMI R.S., AGED 29 YEARS,
SHIBU BHAVAN, OOTUKUZH, I,
MANGALATHKONAM, KATTACHALKUZHI PO,
BALARAMAPURAM (VIA),
THIRUVANANTHAPURAM 695509.

BY SR GOVERNMENT PLEADER SRI.S.JAMAL
BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

EXT.P1A: TRUE COPY OF THE WPC 33690/2011 WHICH WAS TRANSFERRED TO THE KERALA ADMINISTRATIVE TRIBUNAL AND NUMBERED AS TA 4038/2012 ALONG WITH EXT.P1 TO P10.

EXT.P2A: TRUE COPY OF THE ORDER DATED 21.12.11 IN WPC NO.29955/2011 OF THIS HON'BLE COURT.

EXT.P3A: TRUE COPY OF THE MISCELLANEOUS APPLICATION DATED 2.11.2014 FILED BEFORE THE ADMINISTRATIVE TRIBUNAL BY THE PETITIONERS ALONG WITH ANNEXURE M.A.NO.3135/2014 ALONG WITH ANNEXURE M.A.11(a) TO M.A.15(a).

EXT.P4A: TRUE COPY OF THE REPLY STATEMENT DATED 18/12/14 ALONG WITH ANNEXURE R1(a) FILED BEFORE THIS HON'BLE KERALA ADMINISTRATIVE TRIBUNAL IN T.A.NO.4038/2012.

EXT.P5A: TRUE COPY OF THE ORDER DATED 31.12.14 IN T.A.NO.4038/2012 ON THE FILES OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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OP (KAT) No. 89 of 2015
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Dated this the 23rd day of March, 2015

J U D G M E N T

Antony Dominic, J.

The challenge in this OP is against the order passed by the Kerala Administrative Tribunal dismissing TA No.4038/2012. In the rank list published by the Public Service Commission for making appointment to the post of ECG Technicians in the Medical Education Department, appellants were also included. Complaining that despite existence of vacancies, vacancies are not reported to the PSC, they filed WP(C) No.33690/11 before this Court, which was transferred to the Kerala Administrative Tribunal on its constitution and was numbered as TA No.4038/12.

2. Before the Tribunal, respondents filed a statement explaining the non availability of vacancies and taking note of the fact that the said assertion on behalf of the respondents was not contradicted by the petitioners, the Tribunal rejected the TA by the impugned order. It is this order which is under challenge before us.

3. We heard the learned counsel for the petitioners, learned standing counsel for the Public Service Commission and the learned Government Pleader.

4. Admittedly, the rank list in question, viz., Ext.P1, has expired on 31/12/11. Even according to the pleadings of the petitioners, they have only stated that proposal for creation of additional vacancies is pending consideration of the Government. This, therefore, means that, as at present, or at any time during the expiry of the list, even according to the petitioners, actual vacancies were not in existence for them to sustain a claim against the vacancies. In such a situation, petitioners could not have sought any relief based on their inclusion in Ext.P1 ranked list.

5. Be that as it may, learned counsel for the petitioners referred us to Annexure R1(a), a judgment of this Court in WA No.200/11. We note that the said writ appeal was filed by another candidate, who was also included in the list. The said appeal was disposed of with an observation that candidates included in the PSC list should be considered for contract appointment. Relying on this, learned counsel wanted to make a similar observation in

this judgment also. We note from Annexure R1(a), which was rendered in the background of the very same ranked list, an observation as indicated above has already been noted. Therefore, if the appellants are entitled for the benefit thereof, we leave it open to them to raise their claims, which, if raised, shall be dealt with in accordance with law.

OP(KAT) is disposed of as above.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge