

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

RP.No. 898 of 2012 (Z) IN OP (CAT).1228/2011

AGAINST THE JUDGMENT IN OP (CAT) 1228/2011 of HIGH COURT
OF KERALA DATED 20-12-2011

REVIEW PETITIONER(S)/PETITIONERS IN THE OP(CAT):

1. JYOTHI P., AGED 29 YEARS,
D/O.PURUSHOTHAMAN K.K., WORKING AS POSTMAN
PATHANAMTHITTA HPO, RESIDING AT
THUNDUMANNIL, RANNI,
PERINAD-689 711.

2. AJITHA K.V., AGED 30 YEARS,
D/O.K.K.VIJAYAN, NOW WORKING AS POSTMAN,
PATHANAMTHITTA HPO, RESIDING AT
'KAVUMKAL', THOTTAMAN,
RANNY P.O., PATHANAMTHITTA-689672.

3. SHANIL.T.B., AGED 29 YEARS,
S/O.T.A.BOSE, NOW WORKING AS POSTMAN,
PATHANAMTHITTA HPO, RESIDING AT "THARAMMAL HOUSE",
ELAMPAL P.O., PUNALUR-691322.

4. A.JEYA, AGED 27 YEARS,
W/O.N.DAVID RAJAN, NOW WORKING AS POSTMAN,
PATHANAPURAM SO, RESIDING AT "NARAYANA BHAVAN",
POOTHOTTAM, ARYANKAVU VILLAGE, PUNALUR TALUK,
KOLLAM DISTRICT.

BY ADVS.SRI.M.R.HARIRAJ
SRI.P.A.KUMARAN
SMT.VINEETHA B.
SRI.NIRMAL V NAIR
SRI.K.RAJAGOPAL
SRI.ANISH JAIN

RESPONDENT(S)/RESPONDENTS IN THE OP(CAT):

1. SUNIL SOMASEKHARAN PILLAI, AGED 32 YEARS,
SOMASEKHARAN PILLAI, GDS BRANCH POSTMASTER,
THUMPAMON NORTH P.O., RESIDING AT SUNIL VILLAI,
THUMPAMON THZHOM P.O., ELAVANTHITTA,
PATHANAMTHITTA-
PIN-689632.

2. THE CHIEF POSTMASTER GENERAL,
KERALA CIRCLE, THIRUVANANTHAPURAM, PIN-695033.

3. THE SUPERINTENDENT OF POST OFFICES,
PATHANAMTHITTA DIVISION, PATHANAMTHITTA-689645.

4. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO GOVT. OF INDIA,
MINISTRY OF COMMUNICATIONS, DEPARTMENT OF POSTS,
NEW DELHI, PIN-110001.

5. SANJU.G.NAIR
GDS BRANCH POSTMASTER, KATTOOR-KOZHENCHERY P.O.
PATHANAMTHITTA, PIN-689650.

R1 BY ADV. SRI.P.C.SEBASTIAN

R5 BY ADV. SRI.SAJITH KUMAR V.

R2-R4 BY SRI.N.NAGARESH,
ASSISTANT SOLICITOR GENERAL OF INDIA

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 06-10-2015, ALONG WITH RP. 899/2012, RP. 32/2013,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.R. RAMACHANDRA MENON &
K. HARILAL, JJ.**

**R.P. Nos.898 & 899 of 2012
and 32 of 2013**

Dated this the 6th day of October, 2015

ORDER

Ramachandra Menon, J.

These review petitions arise from a common judgment dated 20/12/2011 passed by this Court in O.P.(CAT) Nos.1228 and 1099 of 2011.

2. Heard the learned counsel for the review petitioners as well as the learned Assistant Solicitor General of India appearing for the concerned respondents.

3. The main prayer is to review the judgment to the extent it restricts the benefit flowing therefrom, only to the 'applicants' before the Central Administrative Tribunal, Ernakulam Bench

(respondents in the Original Petitions) and to make it clear that the same will be applicable to the 'parties' to the Original Applications/Original Petitions (CAT).

4. The sequence of events is as follows: The Department issued notification for filling up the posts of Postman from the cadre of Gramin Dak Sevak (GDS). As per the original notification, it was shown that the vacancies were 'not reserved'; but in the course of proceedings, it came to be notified that a certain extent of reservation was provided in respect of OBC candidates. Selection process was finalised accordingly, which was sought to be challenged by the aggrieved persons by approaching the CAT by way of different Original Applications contending that, it being a case of promotion, no reservation could have been provided to the OBCs. The Tribunal considered the issue at length and passed the final order; whereby the case of the applicants before the Tribunal was accepted and the position was held accordingly. This was sought to be challenged by the party respondents

before the Tribunal who belonged to the category of 'OBC' by filing the concerned Original Petitions before this Court, seeking for a declaration as sought for and for consequential reliefs.

5. After hearing the matter in detail, a common judgment dated 20/12/2011 was passed as aforesaid; whereby the Court held that the appointment to the post of Postman from the cadre of GDS/EDA was only way of 'promotion' and not direct recruitment; by virtue of which, no reservation could have been provided for the 'OBC' and that the claim mooted by the original petitioners was not liable to be entertained. It was held that no interference was warranted in respect of the verdict passed by the Tribunal and the original petitions were dismissed accordingly. However, it was made clear in paragraph-31 of the judgment that in so far as promotion of the 'applicants', who were not selected because of want of approval by the Screening Committee as well as the age restriction applied by

the department was concerned, the benefit of the judgment will stand extended only to those candidates who were the 'applicants' before the CAT (who were the concerned respondents in the original petitions). This is sought to be clarified, so as to make the review petitioners (who were parties to the Original Applications/Original Petitions) also to be eligible for such benefit.

6. The basis of the said contention is that, the review petitioners, after finalising the proceedings before this Court, gathered necessary data by invoking the remedy under the RTI Act; whereby it was found that there were a total number of 29 vacancies (14 + 15) to be filled in the cadre of Postman in the two relevant recruitment years. As against the said vacancies, only 'three' posts were filled up in each of the recruitment year (total six) and as such, the remaining vacancies were lying vacant. By virtue of the level of placement of the review petitioners in the rank list, it is stated that they are eligible to be

accommodated against the available vacancies even by treating them as general candidates, by virtue of the merit, for which clarification is necessary with regard to the observations made by this Court in paragraph-31 of the judgment and hence the review petitions.

7. It is submitted by the learned Assistant Solicitor General of India that the review petitioners and other aggrieved parties have already approached the Supreme Court challenging the common judgment dated 20/12/2011 passed by this Court; that the Special Leave Petitions have been admitted and they are pending. It is pointed out that hearing, was over in S.L.P.Nos.35223/12 and 1799/13 on 6/1/2015 and the judgment stands reserved. The other S.L.P. Nos.22823/13, 12920/14 and 21280/14 are ordered to be posted after pronouncing the judgment in the former two cases. It is further submitted by the learned ASGI that no steps have been taken to terminate the services of the petitioners because of

the pendency of the S.L.Ps. and that further steps will be pursued only based on the verdict to be passed by the Apex Court in the aforesaid matters.

8. After hearing both the sides, this Court finds that the clarification sought for by way of present review petitions could be granted, in so far as it will cause no prejudice to either side. In fact, what was intended by this Court while passing the common judgment was to have the benefit extended to the 'parties' to the proceedings. It stands clarified accordingly.

The review petitions are disposed of.

Sd/-

(P.R. RAMACHANDRA MENON, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge