

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

OP(KAT).No. 161 of 2015 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 366/2015 of KERALA ADMINISTRATIVE
TRIBUNAL, THIRUVANANTHAPURAM DATED 20-05-2015

PETITIONER(S)/APPLICANT IN THE OA::

VIJAYALAKSHMY T.B, AGED 68 YEARS
W/O.M.D.SALIM
RETIRED LECTURER IN PHARMACEUTICAL CHEMISTRY
RESIDING AT D D HERITAGE, STARLINE LINK ROAD
CHERAI.P.O., ERNAKULAM DISTRICT, PIN: 683 514.

BY ADVS.SRI.T.V.AJAYAKUMAR
KUM.P.H.RIMJU

RESPONDENT(S)/RESPONDENTS IN THE OA:

1. THE PRINCIPAL ACCOUNTANT GENERAL (A&E) KERALA
THIRUVANANTHAPURAM - 695 001.

2. STATE OF KERALA
REPRESENTED BY THE SECRETARY
FINANCE (PENSION-B) DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

3. THE ADDITIONAL CHIEF SECRETARY (FINANCE)
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

BY SR. GOVERNMENT PLEADER SRI.JOSEPH GEORGE

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(KAT) .No. 161 of 2015 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: TRUE COPY OF THE INTERIM ORDER DATED 20/5/2015 OF THE HON'BLE
KERALA ADMINISTRATIVE TRIBUNAL IN O.A 366/15.

P2: TRUE COPY OF THE OA NO.366/2015 DATED 15/5/2015 FILED BY THE
PETITIONER BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

Pn

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

O.P.(KAT) No. 161 of 2015

Dated this the 28th day of May, 2015

J U D G M E N T

P.R. Ramachandra Menon, J.

The interim order dated 20.05.2015 passed by the Kerala Administrative Tribunal, Ernakulam in O.A. No.366 of 2015 is under challenge in this Original Petition preferred by the applicant. The applicant approached the Tribunal with the following prayers:

- "i) an order quashing/setting aside Annexure A-4, A-8 and A-15 orders.*
- ii) to declare that the applicant is entitled to be placed in the Pay Band of Rs.37400-67000 with Academic Grade Pay of Rs.9000/- and to issue consequential direction directing the respondents to fix the pensionary benefits of the applicant in the Pay of Rs.37400-67000 with AGP of Rs.9000/-.*
- lii) such other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."*

2. After considering the interim relief sought for the Tribunal passed the following order:

"Admit. Learned Government Pleader took notice for the respondents. The applicant shall be paid only revised pension. But the recovery

of excess payment made to her is stayed for a period of two months.”

3. By virtue of the aforesaid order, the recovery of excess payment pursuant to refixation of pension of the petitioner as per Annexure A15 dated 20.04.2015 stands stayed. However, contending that the refixation itself ought to have been stayed by the Tribunal, the petitioner has approached this Court by filing the present Original Petition.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for the respondents.

5. During the course of hearing, the learned counsel for the petitioner pointed that, the petitioner has been enjoying the benefit of interim stay earlier, including on the question of refixation. The correctness and sustainability of Annexure A15 order is pending consideration before the Tribunal. Going by the contents of the said order, it is seen that the mistake has been caused to be rectified by refixation ordered therein, resulting in the modification. The Tribunal has considered the said order, which is subjected to challenge in the O.A., and has found it fit and proper to grant interim relief only to the extent of recovery. The discretion exercised by the Tribunal cannot be

said as arbitrary, illegal or improper in any manner. If for any reason the petitioner succeeds and the impugned orders are set aside, it is always open for the petitioner to move the Tribunal to put the court back to the position and no prejudice will be caused to the petitioner in any manner.

This Court does not find any sustainable ground to interfere with the interim order passed by the Tribunal or as to the discretion exercised in this regard. Interference is declined and the Original Petition is dismissed accordingly. No opinion is expressed with regard to the merit.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Sd/-

BABU MATHEW P. JOSEPH, JUDGE.

Pn