

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA**

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

OP(KAT).NO. 220 OF 2015 (Z)

OA 845/2014 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER(S):

- 1. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, THULASI HILLS
PATTOM PALACE P.O., THIRUVANANTHAPURAM.**
- 2. THE DISTRICT OFFICER, KERALA PUBLIC SERVICE COMMISSION,
CIVIL STATION, NEW BLOCK, MALAPPURAM-676 505.**

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

RESPONDENT(S):

- 1. SATISHKUMAR K.S.,
KARUTHEDATH HOUSE, MUTTANCHERRY P.O., NARIKKUNI VIA
KOZHIKODE DIST., KERALA-673 585.**
- 2. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
HOME DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.**

BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP(KAT).NO. 220 OF 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF THE O.A (EKM) NO 845/2014 WITH ANNEXURES.

ANNEXURE A1: COPY OF THE EX-SERVICEMAN IDENTITY CARD IS NO.14322 ISSUED TO THE APPLICANT.

ANNEXURE A2: COPY OF THE ADVERTISEMENT FOR CATEGORY NO.250/2011.

ANNEXURE A3: COPY OF THE CERTIFICATE ISSUED BY THE MEDICAL CONSULTANT OF THE GOVERNMENT GENERAL HOSPITAL KOZHIKODE DATED 19.09.2014.

ANNEXURE A4: COPY OF THE MEDICAL BOARD PROCEEDINGS ISSUED BY THE 3RD RESPONDENT.

ANNEXURE A5: COPY OF THE REPRESENTATION OF THE APPLICANT DATED 4/11/2014

ANNEXURE A6: COPY OF THE LETTER NO.UFR(2)42100/10GW DATED 22/11/2014.

ANNEXURE A7: COPY OF THE HONOURABLE SUPREME COURT ORDER IN CIVIL APPEAL NO.3578/2009.

EXHIBIT P2: COPY OF THE AFFIDAVIT AND PETITION ALONG WITH THE ANNEXURE

EXHIBIT P3: COPY OF THE REPLY STATEMENT DATED 11-02-2015

EXHIBIT P4: COPY OF THE ORDER IN O.A (EKM) NO 845 OF 2014 DATED 11-02-2015

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

P.R. RAMACHANDRA MENON
&

P.V.ASHA, JJ

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OP(KAT) NO.220 OF 2015

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Dated this the 6th day of July, 2015

JUDGMENT

Asha,J

The Kerala Public Service Commission (hereinafter referred to as 'PSC') has filed this Original Petition against the order passed by the Kerala Administrative Tribunal in O.A. No.845/2015, by which the PSC is directed either to accept Annexure A4 medical certificate issued by the Medical Board or to subject the 1st respondent to an examination by the Medical Board in order to decide his medical fitness.

2. 1st respondent, who is an Ex-service man submitted application for selection and appointment to the post of Police Constables (Armed Police Battalion Malappuram), in Kerala Government Service pursuant to Annexure A2 notification issued by the PSC . He came out successful in OMR test and thereafter completed the physical measurement and efficiency test on 14.5.2014. On

direction by the PSC, he obtained a medical fitness certificate as to the standard of his vision, from the Government General Hospital, Kozhikode, in the prescribed form and produced it before the PSC.

3. When the rank list was published his name was not seen included. On coming to know that the PSC did not accept his medical fitness certificate, he submitted another certificate. Subsequently he got himself examined by a Medical Board and got Annexure A4 certificate dated 19.9.2014. He submitted representation dated 4.11.2014, enclosing the medical certificate received from the Medical Board and requesting to include his name in the ranked list.

But PSC rejected his representation as per Annexure A6 dated 22.11.2014 saying that his representation cannot be considered since the certificate, as to standard of vision, is not accepted.

4. It was in the above circumstances that the 1st respondent approached the Kerala Administrative Tribunal filing the O.A.No.845/2014, challenging Annexure A6 letter and praying for a direction to the respondents to consider

the certificate Annexure A4 issued by the Medical Board or alternatively to conduct a medical examination for him to the choice of the respondents and to include him in the rank list for the post of Police Constables.

5. Before the Tribunal, the PSC had filed their reply statement opposing the reliefs sought. According to them the certificate produced by the candidate in the proforma prescribed in terms of the Annexure A1 notification issued contained certain additional writings, apart from the prescribed details. Therefore the PSC took the stand that the said certificate was not in conformity with the conditions stipulated in the notification and on account of that he was not included in the rank list. Since the medical certificate produced at the time of certificate verification held on 14.5.2014 contained certain additional writings in the column for near vision for both eyes (without glasses), which could not be deciphered, they got it verified and found that in order to meet the required standard he would have to use spectacles. Accordingly applicant was not considered for inclusion in the rank list. According to them

the 1st respondent had thereupon produced another certificate along with his representation, apart from the original certificate Annexure A8 produced at the time of verification. It was stated that the claim on the basis of certificate produced subsequently, cannot be accepted. It was stated that his representation was examined, but rejected on being found that applicant was not medically fit with respect to standard of vision.

6. After considering the contentions raised on either sides, Tribunal found that Annexure A8 certificate produced by the applicant contained certain additional writings which could not be deciphered by the Tribunal. It was found that there is a dispute as to the fitness of the applicant which could be resolved by the decision of the Medical Board. Following the order Annexure A7, passed by the Apex Court, Tribunal directed the PSC that the 1st respondent be subjected to an examination by the Medical Board in case they found it difficult to accept Annexure A4 certificate, which was already issued by the Medical Board and produced by the applicant.

7. It is as against the aforesaid direction that the Public Service Comm has filed this original petition. We heard Sri. P.C.Sasidharan, the learned Standing Counsel for PSC. According to him PSC cannot be compelled to conduct such examinations, since they are conducting examinations and selections in which lakhs and lakhs of candidates appear. If such a procedure is adopted and started to accept certificates other than those produced along with the application, it will give rise complaints from others who may also make similar demands and it will create a bad precedent and practice not followed hitherto.

8. We find that the candidate in this case is an ex-service man who was discharged from Army after rendering 17 years of meritorious service. He came out successful in the OMR test and is not included in the rank list, on account of the alleged defective certificate. In this context it is necessary to examine the visual standard prescribed and form of certificate which was to be produced, as contained in the notification Annexure A2. Visual standards prescribed is under cl.7. Qualification, which reads as follows:–

(iii) Eye Sight : Must be certified to possess the visual standards specified below without glasses.

a. Vision Right Eye Left Eye

b. Distant Vision 6/6 Snellen 6/6 Snellen

c. Near Vision 0.5 Snellen 0.5 Snellen

Note: Each Eye must have a full field of vision. Colour blindness, squint or any morbid conditions of the Eye or lids of either eye will be deemed to be a disqualification.'

The form prescribed is as follows:

FORM OF MEDICAL CERTIFICATE

I have this day medically examined Sri..... and found that he has no disease or infirmity which would render him unsuitable for Government Service. His age according to his own statement is and by appearance and his standards of vision is as follows.

Standards of Vision

	Right Eye	Left Eye
i) Distant Vision	Snellen	Snellen
ii) Near Vision	Snellen	Snellen
iii)Field of Vision		
(Specify whether full or not. Entries such as Normal, good etc. are inappropriate here)		
iv) Colour Blindness		
v) Squint		
vi) Any morbid condition of the eyes or lids of either eye.....		

He is physically fit for the Police constable in the Armed Police Battalion.

Place

Signature:

Date:

Name and Designation
of the medical Officer

(Seal)

9. Annexure A8 is the certificate produced by the 1st respondent before the PSC. According to the said certificate the distant vision is 6/6 Snellen for the right as well as the left eyes and regarding near vision it is .5 each in left and right eyes. In Annexure A8, apart from the prescribed details, certain additional writings were given, which we also are unable to decipher. We are also unable to accept the contention of the PSC that the additional writings provide for the standard of vision of the candidate if he is wearing glasses.

10. Annexure A8 is issued by a single medical Officer whereas the Annexure A4 certificate is issued by the Medical Board and it does not have any such additional writings which are objectionable. Annexure A4 certificate shows the distant vision in the right as well as left eye is 6/6 and in respect of near vision it is .5 each. The above requirements alone are envisaged in the standard prescribed form for selection and appointment to the post in question. It is after perusal of both the certificates Annexure A8 as well as Annexure A4 that the Tribunal

directed the PSC either to accept Annexure A4 certificate issued by the Medical Board or to subject the candidate to an examination by a Medical Board in order to decide his medical fitness. The said direction was issued following the order passed by the Apex Court in Annexure A7 order dated 14.5.2009 in Civil Appeal No.3578 of 2009, where also the dispute was with reference to visual standards of a CRPF personnel.

11. Under the above circumstances, we do not find any reason to interfere with the order passed by the Tribunal. Moreover we find that the applicant before the Tribunal is an ex-service man who got qualified in all other aspects, based on his application submitted after serving Indian Army for 17 years, for selection to the post of Police Constable. We find it quite unfortunate, unnecessary and highhanded that PSC has ventured to assail such a harmless order passed by the Tribunal for advancing the cause of justice. It is to be noticed that a constitutional body like PSC

while performing its bounden duty to select the meritorious candidates, cannot be expected to deny the opportunities available to such candidates on technical, trivial and flimsy grounds. Inconvenience or likelihood of flood of litigation cannot result in such arbitrary denial of employment to such candidates, for no fault on their part. Under the above circumstances, though we are of the considered view that the original petition deserves to be dismissed with cost, we refrain.

As the time stipulated by the Tribunal has expired, we grant 3 weeks time for completing the proceedings directed in the impugned order.

With the above observations we dismiss the OP(KAT).

(P.R. RAMACHANDRA MENON, JUDGE)

(P.V.ASHA, JUDGE)