

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

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

OP (KAT) .No. 264 of 2015 (Z)

PETITIONER(S) :

DHANYA D.L. AGED 33 YEARS
W/O. BIJU, T.P.VALANVILA VEEDU, PAYARUMMOODU
KOTTUKAL P.O., VIZHINJAM, NEYYATTINKARA
THIRUVANANTHAPURAM-695 501.

BY ADV. SMT.KEERTHI SOLOMON

RESPONDENT(S) :

1. THE SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY
THIRUVANANTHAPURAM-695 004.

3. THE DIRECTOR
DIRECTORATE OF MEDICAL EDUCATION
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 009.

4. THE DIRECTOR OF HEALTH SERVICES
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 009.

5. THE DISTRICT HEALTH OFFICER
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 009.

R BY SENIOR GOVERNMENT PLEADER SRI JOSEPH GEORGE
R BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

:2:

OP(KAT).No. 264 of 2015 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE RANK LIST FOR THE POST OF ECG TECHNICIANS.

RESPONDENT(S) ' EXHIBITS

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.
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O.P.(KAT) No. 264 of 2015  
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Dated, this the 4th day of August, 2015

JUDGMENT

Ramachandra Menon, J.

The petitioner herein was the person included in the rank list prepared by the PSC for selection and appointment to the post of ECG technicians. Since all the vacancies were not being reported to the PSC then and there, she was constrained to approach this Court earlier, by filing W.P.(C) No. 29955 of 2011. Subsequently, some other persons also approached this Court, who were similarly situated, by filing W.P.(C) No. 33690 of 2011.

2. When the matters were pending consideration, an interim order was passed by this Court, to report '25' vacancies of ECG Technicians to the P.S.C. The matters were subsequently transferred to the Kerala Administrative Tribunal, where they were separately numbered as T.A. No. 3546 of 2012 and T.A. No. 4038 of 2012 respectively. The Department took up a contention that no vacancy was available, so as to accommodate the petitioners/applicants. It was accordingly, that interference was declined and the transfer

applications were dismissed. Being aggrieved of the verdict passed by the Tribunal in T.A. No. 4038 of 2012, they approached this Court by filing O.P.(KAT) No. 89 of 2015 referring to nature and extent of relief granted by this Court in W.A. No. 200 of 2011, enabling persons like the petitioners to get 'contract appointment', considering the fact that they were already included in the rank list. O.P.(KAT) No. 89 of 2015 preferred by the applicants in T.A. No. 4038 of 2012 was disposed of as per Annexure A5 judgment. The learned counsel for the petitioner submits that the petitioner, who was the applicant in T.A. No. 3546 of 2012 and had approached this Court at the first instance, might be given similar benefit as contained in Annexure A5 judgment.

3. Heard the learned Government Pleader as well as the learned Standing Counsel appearing for the second respondent PSC.

4. During the course of hearing, it is brought to the notice of this Court that the relief granted by a Division Bench of this Court as per Annexure A5 judgment, stands on a different footing, in so far as such direction was given when the rank list was in existence. The rank list subsequently got expired on '30.12.2011'. As such,

the observation made by the subsequent Division Bench in Annexure A5 judgment will not come to the rescue of the petitioners therein or the petitioner in the present case. The direction contained in paragraph 5 of Annexure A5 judgment is as follows :

"Be that as it may, learned counsel for the petitioners referred us to Annexure R1(a), a judgment of this Court in W.A. 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."

O.P.(KAT) No. 264 of 2015

: 4 :

6. The learned counsel for the petitioner submits that no fresh rank list has been published in respect of the post and in the said circumstances, nothing prevents the Government or PSC in considering the case of the petitioner for conferring the limited right with reference to the contract appointment, as ordered to be given vide Annexure A5 judgment. If this be the position, this Court finds it fit and proper to cause the matter to be considered and disposed of in similar lines to Annexure A5 judgment in O.P.(KAT) No. 89 of 2015. The matter stands disposed of in similar terms, as in OP (KAT) No. 89 of 2015.

sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

Sd/-

**BABU MATHEW P. JOSEPH,
JUDGE**

kmd