

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

OP(KAT).No. 271 of 2015 (Z)

AGAINST THE ORDER IN OA 953/2014 of KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM DATED 12-12-2014.

PETITIONER/APPLICANT::

DR. PRASANT K.A.,
S/O. EASWARAN NAMPPOTHIRI, AGED 36 YEARS
RESIDING AT ATTUPURAM ILLOM, KAITHAPPURAM
MATHAMANGALAM PO, KANNUR, KERALA.

BY ADV. SRI. V. N. RAMESAN NAMBISAN

RESPONDENTS::

1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM, KERALA, PIN - 695 001.
2. THE DIRECTOR OF INDIAN SYSTEMS OF MEDICINE,
DIRECTORATE OF INDIAN SYSTEMS OF MEDICINES
AROGYA BHAVAN, P.B.NO.182, THIRUVANANTHAPURAM
KERALA, PIN - 695 001.
3. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PATTOM PALACE PO
THIRUVANANTHAPURAM, KERALA, PIN - 695 004.
4. KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM - 695 001.

R1 & R2 BY GOVERNMENT PLEADER SRI. REMY STEPHEN CHAMAPARAMBIL
R3 BY SRI. P. C. SASIDHARAN, SC, KPSC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(KAT).No. 271 of 2015 (Z)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1: TRUE COPY OF OA NO.953 OF 2014 ON THE FILE OF THE COURT OF KERALA ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH DATED 12-12-2014 FILED BY THE PETITIONER.

EXT.P2: TRUE COPY OF ORDER IN O.A.NO.953 OF 2014 PASSED BY THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM BENCH, CAMP SITTING ERNAKULAM DATED 12-12-2014.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

O.P.(KAT) No.271 of 2015

Dated this the 9th day of September, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner has filed this Original Petition challenging Ext.P2 order dated 12.12.2014 of the Kerala Administrative Tribunal (hereinafter referred to as “the KAT” for short) dismissing O.A. No.953 of 2014 filed by him. The petitioner is a candidate who was included in a ranked list prepared by the Public Service Commission (hereinafter referred to as “the PSC” for short) on 15.06.2009 for appointment to the post of Medical Officer (Ayurveda)/Assistant Insurance Medical Officer (Ayurveda) in the Indian Systems of Medicine/Insurance Medical Services Department. The rank list was in force for a period of 4 ½ years and has expired on 14.06.2013. However the list was kept alive till 14.12.2014. Thereafter, it is not in dispute that a fresh list has been published, which is in force.

2. Three candidates who were included in a list that was published on 16.02.2009 had filed O.A Nos.2855 of 2013 and

2877 of 2013 before the KAT complaining that 32 vacancies that were reported during the period of validity of the said list were available before the PSC and that no candidates had been advised to the said posts. As per Annexure – A2 order which forms part of Ext.P1, the KAT had directed candidates to be advised from the list that had expired, to the said vacancies. According to the petitioner herein, based on the direction contained in Annexure – A2 order, the Director of Indian Systems of Medicine had passed Annexure – A3 order which also forms part of Ext.P1, on 7.3.2014. In the said order, it was found that there were 9 retirement vacancies of District Medical Officers, 5 retirement vacancies of Chief Medical Officers and 9 retirement vacancies of Senior Medical Officers but, those vacancies were not filled up for want of DPC list. If they had been filled up, such action would have resulted in generation of vacancies in the entry post of Medical Officers.

3. According to Sri.V.N. Ramesan Nambisan who appears for the petitioner, the benefit of the directions in Annexure – A2 order is necessary to be extended to the petitioner also, he being a person who was included in the rank list that has expired.

However, the Tribunal has, on a finding that the list had expired long back, dismissed the Original Application. The said order, according to the learned counsel is unsustainable and liable to be set aside.

4. We have heard Sri.Remy Stephen Chamaparambil, the learned Government Pleader as well as Sri.P.C. Sasidharan, the learned Standing Counsel for the Kerala Public Service Commission.

5. We notice that the rank list that had come into force on 15.06.2009 had been kept alive till 15.12.2013 on which date it had expired. The petitioner had approached the Kerala Administrative Tribunal only on 07.12.2014 by filing O.A No.953 of 2014. The claim of the petitioner is that he ought to have been appointed to one of the vacancies that would have arisen, had the DPC list been prepared at the appropriate time and the retirement vacancies of Senior Medical Officers filled up on the basis of the said list.

6. According to the learned Standing Counsel for the PSC, after the expiry of the rank list on 15.12.2013, a fresh rank list has come into force. Candidates have been advised from the

said list that is still in force. In view of the fact that, no vacancy as claimed by the petitioner has actually arisen during the currency of the earlier rank list, the claim of the petitioner cannot be sustained. It is also submitted that the prayer of the petitioner is for advice from a list that had expired as far back as on 15.12.2013.

In view of the above, we do not find any grounds to entertain this Original Petition. The same is therefore, dismissed.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. To Judge

smv