

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

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

OP(KAT).No. 280 of 2015 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 622/2015 of KERALA
ADMINISTRATIVETRIBUNAL, THIRUVANANTHAPURAM DATED 30-07-2015

PETITIONER(S) :

DR.KRISHNA MOHAN M. AGED 30 YEARS
S/O.M.K.CHANDRAMOHAN DAS, AGED 30 YEARS
JUNIOR RESIDENT, DEPARTMENT OF RADIOLOGY
NOW ON WORKING ARRANGEMENT
POSTED IN THE DEPARTMENT OF GENERAL MEDICINE
GOVERNMENT MEDICAL COLLEGE, ERNAKULAM, KOCHI-683503
RESIDING AT FLAT NO.C2, MULLOTH AMBADI ENCLAVE
MULLOTH AMBADI LANE, CHITTOOR ROAD, ERNAKULAM
KOCHI-682011.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND
SMT.L.ANNAPOORNA

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

2. THE PRINCIPAL
GOVERNMENT MEDICAL COLLEGE, ERNAKULAM, HMT COLONY PO
KALAMASSERY, ERNAKULAM, KOCHI-683 503.

R BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(KAT).No. 280 of 2015 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE O.A. NO.(EKM) 622/2015 FILED BY THE
PETITIONER BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM.

EXHIBIT P2. TRUE COPY OF ORDER DATED 30.07.2015 IN O.A.(EKM) 622/2015
OF THIS HON'BLE TRIBUNAL.

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON

&

BABU MATHEW P. JOSEPH, JJ.

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O.P.(KAT) No. 280 of 2015

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Dated, this the 19th day of August, 2015

JUDGMENT

Ramachandra Menon, J.

The grievance of the petitioner is mainly with regard to some unwanted observation/direction given by the Kerala Administrative Tribunal vide Ext. P2 order dated 30.07.2015 passed in O.A. No. 622 of 2015, while directing the second respondent to take appropriate steps and pass orders on Annexure A9 representation with regard to the relief sought for, so as to implement the direction given by the Government vide Annexure A8.

2. The sequence of events reveals that the petitioner, after obtaining degree of MBBS from the Armed Forces Medical College, Pune, was selected and appointed as a Junior Resident in the Department of Radio Diagnosis in the second respondent Medical College, which was originally an institution in the Co-operative Sector under the CAPE. The institution was subsequently taken over by the Government and there is no dispute with regard to the said course and events.

3. The petitioner while working as Junior Resident (Radio Diagnosis) in the erstwhile Co-operative Medical College got admission to M.D. Course in General Medicine, who completed the course and came out successful, obtaining the Post Graduate Degree in General Medicine. He rejoined duty and was posted to the Department of General Medicine on working arrangement. Subsequently, Annexures A6 and A7 representations were preferred requesting for transfer and to have a posting in the Department of General Medicine. As the grievance of the petitioner was not considered, he was constrained to approach the Tribunal by filing the O.A. to cause the grievance to be considered. It was accordingly, that the matter was considered by the Government, who passed Annexure A8 Government Order dated 28.01.2015, whereby the right of the petitioner to get transfer is stated as crystallized. Non-implementation of the direction given by the Government to the second respondent/Principal of the College, made the petitioner to approach the Tribunal by filing O.A. No. 622 of 2015, which was disposed of as per Ext. P2 judgment, making some unwarranted observation and direction, giving a handle to the second respondent to turn against the petitioner, in spite of the issue decided by the Government as per Annexure A8.

This in turn is under challenge in this Original Petition.

4. Heard both the sides in detail.

5. The reliefs sought for by the petitioner in O.A. are in the following terms :

"(i) set aside Ext. P2 order to the extent objected to in this O.P.(KAT).

(ii) direct the 2nd respondent to implement Annexure A9 by accommodating the petitioner in the Department of General Medicine of Government Medical College, Ernakulam, within a time limit to be fixed by this Hon'ble Court.

(iii) direct the 1st respondent to take effective and expeditious action on Annexure A10 to ensure compliance of the direction in Annexure A8 by the 2nd respondent forthwith.

And

(iv) grant such other reliefs as this Hon'ble court deems fit and proper in the circumstances of the case including the costs of this Original Application.

6. The merit of the case of the petitioner was considered by the Government pursuant to the direction given by the Tribunal in the earlier O.A. i.e. O.A. No. 1556 of 2014 and it was accordingly, that Annexure A8 order came to be passed, the operative portion of

which reads as follows :

"Government have examined the matter in detail. The erstwhile Cochin Medical College, was taken over by the Government and renamed it as Government, Government Medical College, Ernakulam. The process of integration of eligible staff of Government Medical College, Ernakulam to Government service, creating sufficient number of post and fixing of service conditions of the existing employees, are being examined by the Government and will be finalized soon. Since Dr. Krishna Mohanan M has a bonded obligation to serve the college after completing the PG courses, the incumbent can be accommodated conveniently in the respective department based on his qualification and verification of the same. Government here by direct Dr. Krishna Mohan M to submit the application before the Principal for redressal of his grievance. The order of Hon'ble Tribunal is thus complied herewith.

7. The remaining exercise to be completed was only to have the said direction implemented by the second respondent. It was based on the direction given by second respondent as per Annexure A8, that the petitioner moved the second respondent by filing Annexure A9 representation. The callous inaction on the part of the

second respondent was brought to the notice of the first respondent by filing Annexure A10.

8. Considering the facts and circumstances, this Court is of the view that the observation made by the Tribunal and the direction given to the second respondent, after the first sentence of paragraph 3 of Ext. P2 verdict are quite unwarranted and hence the same stands deleted. The proceedings shall be finalized by the second respondent so as to give effect to Annexure A8, at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment.

Original Petition stands disposed of.

The petitioner shall produce a copy of the judgment along with a copy of the original petition before the second respondent for further steps.

sd/-

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

sd/-

**BABU MATHEW P. JOSEPH,
JUDGE**

kmd