

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

OP(KAT).No. 301 of 2015 (Z)

ORDER DATED 22-05-2015 IN MA(EKM) 216/2015 IN UNNUMBERED OA (EKM) OF 2015
OF THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER(S)/APPLICANTS:

1. JOY M.S, AGED 45 YEARS,
S/O.LATE JOSEPH SAMUEL,
MUNDANKODUPOL VEEDU, VELLAYIL P.O., THIRUVALLA,
PATHANAMTHITTA-689 645, KERALA.
2. ANNAMMA M.M.,
AGED 48 YEARS, D/O.ITTIYAVIRA MATHAI,
MADATHIKAVUNGAL HOUSE, EZHUMATTOOR P.O., MALLAPPALLY,
PATHANAMTHITTA, KERALA, PIN-689 645.
3. SOBHANA SURENDRAN,
AGED 50 YEARS, D/O.PARAMESWARAN PILLAI, POIKAYIL HOUSE,
VALLAMKULAM P.O., THIRUVALLA, PATHANAMTHITTA,
KERALA - PIN-689 645.

BY ADVS.SMT.S.SINDHU
SRI.S.SHARAN

RESPONDENT(S)RESPONDENTS:

1. STATE OF KERALA,
REP. BY SECRETARY TO GOVERNMENT,
HEALTH & FAMILY WELFARE (H) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-KERALA-695 001.
2. DIRECTOR OF HEALTH SERVICES,
GENERAL HOSPITAL JUNCTION,
THIRUVANANTHAPURAM-KERALA-695 001.
3. DISTRICT MEDICAL OFFICER OF HEALTH,
PATHANAMTHITTA-689 645, KERALA.
4. DISTRICT COLLECTOR,
PATHANAMTHITTA-689 645, KERALA.

BY SENIOR GOVERNMENT PLEADER SMT.REKHA VASUDEVAN

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 08-12-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

msv/

OP(KAT).No. 301 of 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- A TRUE COPY OF THE ORDER DATED 22/05/2015 IN MA (EKM)
NO.216/2015 IN UNNUMBERED OA(EKA) NO.....OF 2015 OF THE
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM (CAMP SITTING,
ERNAKULAM).**

**EXHIBIT P2- A TRUE COPY OF THE UNNUMBERED OA(EKM)...../2015 ALONG WITH
THE ANNEXURES AND M.A.(EKM) NO.215 & 216/2015.**

**EXHIBIT P3- A TRUE COPY OF THE NOTIFICATION DATED 1/11/2014 ISSUED BY
1ST RESPONDENT ALONG WITH DETAILS OF NAME AND ADDRESS OF
THE CONTRACT EMPLOYEES.**

**EXHIBIT P4- A TRUE COPY OF THE EXTRACT OF THE NOTIFICATION DATED 1/7/2015
ISSUED BY THE 1ST RESPONDENT.**

**EXHIBIT P5- A TRUE COPY OF THE ORDER NO.A2-2276/14/GMO PATHANAMTHITTA
DTD.25.9.2015 OF THE 3RD RESPONDENT.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

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

O.P(KAT) NO.301 OF 2015

Dated this the 8th December, 2015.

JUDGMENT

Surendra Mohan, J.

The petitioners had been working as Hospital Attendants Grade II in the Kerala Last Grade Service in various hospitals/primary health centers under the Health Services Department in Pathanamthitta district. They were appointed on daily wage basis. According to the petitioners, they have long periods of service as Hospital Attendants under the respondents. However, they were terminated without taking into account the fact that there were number of vacancies existing in the department. The petitioners being overaged are not eligible to seek any other employment, elsewhere.

2. According to the petitioners, there are a number of vacancies still in existence in Pathanamthitta district. They

had approached the Kerala Administrative Tribunal ('KAT' for short) by filing an application. However, the same was dismissed. It is against the said order that this original petition has been filed.

3. A statement has been filed on behalf of the third respondent. According to the statement, there are no vacancies available in Pathanamthitta district as contended by the petitioners. It is the case of the third respondent that, the vacancies that are alleged to be in existence and pointed out by the petitioners, do not exist. According to the said respondent there are no such vacancies.

4. A reply affidavit has been filed in answer to the statement, on behalf of the petitioners producing Ext.P5 document. According to them out of 60 vacancies that were available in the district 35 persons have been promoted. The remaining vacancies are still vacant.

5. Having heard learned senior counsel Shri. P.Santhalingam who appears for the petitioners, we do not find anything on record to show that vacancies are available as

contended by the petitioners. Though the petitioners have pointed out certain vacancies as existing, the said fact has been denied by the third respondent in the statement filed. The above being the position, no positive direction could be issued. The learned Senior Counsel has drawn our attention to Annexure A3 & A6 judgments where Division Benches of this Court have directed that the petitioners be engaged on daily wage basis, if at all any vacancies are available, until regular appointments are made. We are satisfied that, in this original petition also a similar direction shall meet the ends of justice.

This original petition is therefore disposed of directing the respondents to engage the petitioners on preferential basis, as and when it becomes necessary to engage someone, until regular recruitment is made.

Sd/-
K. SURENDRA MOHAN
Judge

Sd/-
SHAJI P.CHALY
Judge

jj

/True copy/

