

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

OP(KAT).No. 330 of 2015 (Z)

AGAINST THE ORDER IN OA 1876/2014 of KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM DATED 18-06-2015

PETITIONER:

HASEENA. T, AGED 34 YEARS
W/O.MUHAMMED, THEKKUMKUTTY ALLY (PO)
MUKKOM (Via), KOZHIKODE 673 602
REPRESENTED BY HER POWER OF ATTORNEY
HOLDER SIRAJUDHEEN U., S/O.ABOOBACKER
AGED 26 YEARS, UMMATHOOR HOUSE,
THEKKUMKUTTY ALLY (PO), MUKKOM (VIA)
KOZHIKODE – 673602.

BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENT/RESPONDENTS IN O.A. NO.1876 OF 2014:

1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY,
GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM – 695 001.
2. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE – 673 001.
3. THE DISTRICT OFFICER,
K.P.S.C. DISTRICT OFFICE,
CIVIL STATION, KOZHIKODE – 673 020.

R1 & R2 BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE
R3 BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : MEMORANDUM OF ORIGINAL PETITION (KAT) ALONG WITH ANNEXURES

ANNEXURE A1: TRUE COPY OF THE RELEVANT PORTION OF FINAL RANKED LIST OF HSA (MATHS) PUBLISHED BY 3RD RESPONDENT.

ANNEXURE A2: TRUE COPY OF THE DETAILS OF ADVICE OF HSA (MATHS) FROM ANNEXURE A1 LIST DOWNLOADED FROM THE SITE OF 3RD RESPONDENT.

EXHIBIT P2 : TRUE COPY OF INTERIM ORDER, DT.25.3.15 GRANTED BY HON'BLE TRIBUNAL.

EXHIBIT P3 : TRUE COPY OF REPLY STATEMENT FILED BY THE 2ND RESPONDENT ON 4.12.2014.

EXHIBIT P3(a): TRUE COPY OF REPLY STATEMENT DT.2/2015.

EXHIBIT P4 : TRUE COPY OF REJOINDER DT.1.2.2015 FILED BY THE APPLICANT.

EXHIBIT P5 : TRUE COPY OF ORDER OF HONOURABLE TRIBUNAL, DATED 18.6.2015 IN OA 1876/2014.

EXHIBIT P6 : TRUE COPY OF GOVERNMENT ORDER NO.G.O.(P) NO.213/2015 G.EDN. DATED 6.8.2015.

EXHIBIT P7 : TRUE COPY OF THE APPLICATION DT.19.8.2015 FILED UNDER RIGHT TO INFORMATION ACT.

EXHIBIT P8 : TRUE COPY OF THE REPLY RECEIVED UNDER RIGHT TO INFORMATION ACT DATED 30.8.2015.

EXHIBIT P9 : TRUE COPY OF THE REPLY DATED 1.9.15 RECEIVED FROM GVHSS CHERUVANNUR

EXHIBIT P10 : TRUE COPY OF THE REPLY DT.4.9.15 RECEIVED FROM GHSS AZHIYOOR SCHOOL.

EXHIBIT P11 : TRUE COPY OF THE REPLY DT.4.9.15 RECEIVED FROM GHSS VANMUGHAM SCHOOL.

EXHIBIT P12 : TRUE COPY OF REPRESENTATION DATED 15.09.2015.

RESPONDENTS' EXHIBITS: NIL

//true copy//

smv

P.A TO JUDGE

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

O.P.(KAT) No.330 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner in Original Application No.1876 of 2014 of the Kerala Administrative Tribunal has filed this Original Petition challenging the order dated 18.06.2015, declining to grant relief to the petitioner. The petitioner is a candidate included in a rank list published by the Public Service Commission on 19.10.2010. A copy of the rank list was produced as Annexure A1 along with the Original Application. She had applied for appointment to the post of HSA(Mathematics) in the Education Department in Kozhikode District. The petitioner alleged that there were vacancies available in the cadre of HSA (Mathematics) which could be filled up from the rank list. But, since vacancies were not reported, she was not appointed. As per the reply submitted by the 2nd respondent, there were no vacancies available. It was pointed out that, as per the Staff Fixation Order for the academic year 2014-2015, there were three excess teachers. Therefore,

there were no vacancies available for being reported to the Public Service Commission. The petitioner has filed this Original Petition attacking the said contention.

2. The counsel for the petitioner places reliance on Ext.P6 Government Order dated 06.08.2015 by which, it has been ordered that the Staff Fixation Order for the year 2010-2011 shall continue to apply in so far as the number of sanctioned posts are concerned for the academic year 2014-2015.

3. In view of the above, according to the learned counsel, no reduction of posts would occur during the academic year 2014-2015. For the above reason, no teacher would be rendered excess and there would be vacancies available to be reported to the Public Service Commission.

4. The learned Government Pleader disputes the above contention by pointing out that, actually, there were no vacancies available for being reported to the Public Service Commission and it is for the said reason, the petitioner was not appointed.

5. The learned counsel for the Public Service Commission points out that the list that was published on 19.10.2010 had expired on 18.4.2015. Therefore, the petitioner could not claim

any relief on the strength of her rank in the said list.

6. Having considered the respective contentions, we do not find any grounds to interfere with the order of the Kerala Administrative Tribunal in O.A. No.1876 of 2014. Though the policy of the Government as revealed from Ext.P6 was to continue the staff strength that was applicable during the academic year 2010-2011, the fact remains that three teachers had become excess during the academic year 2014-2015 and that there were no vacancies available for being reported to the Public Service Commission.

7. The above being the actual state of affairs, it is not open to the petitioner to claim any relief on the basis of Ext.P6 Government Order.

8. As a last submission, the counsel for the petitioner submitted that the petitioner has preferred a representation to the 2nd respondent on 15.09.2015, a copy of which has been produced as Ext.P12 in this Original Petition. The counsel seeks the issue of a direction to consider the said representation. We are inclined to grant the said direction.

9. In view of the above, while declining interference with Ext.P5 order of the Kerala Administrative Tribunal, the 2nd

respondent is directed to consider Ext.P6 representation in accordance with law and to pass appropriate orders thereon as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

**K. SURENDRA MOHAN
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

smv
19.10.2015