

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 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

OP(KAT).No. 338 of 2015 (Z)

AGAINST THE ORDER IN TA 4900/2012 of KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM DATED 04.02.2015

PETITIONER/APPLICANT:

P.N.SOMAN, AGED 55 YEARS
S/O NARAYANAN
MECHANICAL ENGINEER IN FULL ADDITIONAL CHARGE
STATE WATER TRANSPORT DEPARTMENT
ALAPPUZHA(PRESENTLY WORKING AS WORKS MANAGER
STATE WATER TRANSPORT DEPARTMENT D& R SECTION
ALAPPUZHA-688 001)

BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD
V. RAJASEKHARAN NAIR

RESPONDENTS:

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1. THE STATE OF KERALA
REPRESENTED BY ITS ADDITIONAL CHIEF
SECRETARY TO GOVERNMENT SECRETARIAT
STATE WATER TRANSPORT DEPARTMENT, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM-695 001
 2. THE DIRECTOR
STATE WATER TRANSPORT DEPARTMENT, ALAPPUZHA-688 001
 3. THE CHAIRMAN AND MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN
THIRUVANANTHAPURAM-695 001
 4. SRI. BRIJLAL B
ASSISTANT DEPOT ENGINEER
KERALA STATE ROAD TRANSPORT CORPORATION
KAYAMKULAM DEPOT
ALAPPUZHA DISTRICT-690 502

R1 & R2 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R3 & R4 BY SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1: TRUE COPY OF THE GOVT. ORDER GO(RT) NO. 75/08/TRAN DT 26/2/08

EXT.P2: TRUE COPY OF THE GOVT. ORDER GO(MS) NO. 66/97/PW & T DT
10/6/97

EXT.P3: TRUE COPY OF THE REPRESENTATION DT. 1/12/2000

EXT.P4: A TRUE COPY OF THE LETTER NO. E1/167118/2000 DT. 10/7/12

EXT.P5: TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT DT. 25/1/02

ANNEXURE P1: TRUE COPY OF THE ORDER IN T.A. NO.4900/2012 OF THE
KERALA ADMINISTRATIVE TRIBUNAL DATED 04.02.2015.

ANNEXURE P2: TRUE COPY OF THE WRIT PETITION ALONG WITH EXHIBITS

ANNEXURE P3: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 1ST
RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A TO JUDGE

smv

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

O.P.(KAT) No.338 of 2015

Dated this the 4th day of November, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner has filed this Original Petition, aggrieved by the order of the Kerala Administrative Tribunal(“the KAT” for short) in T.A. No.4900 of 2012. The petitioner was working as a Foreman in the Water Transport Department. While so, a vacancy of Works Manager arose on 11.06.1997. Completion of two years as a Foreman was necessary for being promoted to the post of Works Manager. As on the date of occurrence of the vacancy the petitioner had not completed two years service in the post of Works Manager. The petitioner completed the required two years service in the cadre of Foreman only on 27.8.1997. Therefore, he claims that, he was entitled to be promoted to the post of Works Manager. However, before the said date, since there were no qualified persons available to be promoted to the post of Works Manager the post had been reported to the Kerala Public Service Commission(“the PSC” for

short) under the Note to Rule 28(b)(IA) of Part II KS & SSR. Though the PSC had notified the vacancy on 10.2.1998, no appointment was made. The vacancy has been re-notified again. According to the petitioner, he had become qualified even before the PSC had notified the vacancy. Therefore, he has been appointed to the post of Works Manager under Rule 9(a)(i) of the General Rules. He has been working as such from 29.10.1998. Since he has been working continuously in the said post for the past 16 years, it is contended that, he is entitled to be promoted regularly to the said post. He has also been given additional charge of the post of Mechanical Engineer and the said arrangement is continuing till date. He claims promotion to the post of Mechanical Engineer also.

2. According to Sri.V.A. Muhammed who appears for the petitioner, the petitioner being fully qualified to be appointed to the post of Works Manager ought to have been promoted, without reporting the vacancy to the PSC for Direct Recruitment. The petitioner also claims that, he is entitled to be promoted as Mechanical Engineer, having been working in the post of Works Manager for the past 16 years.

3. Since the petitioner has not been regularly promoted to the post of Works Manager, the petitioner has no right to claim promotion to the post of Mechanical Engineer, which is the next higher post. The petitioner cannot voice any grievance against the filling up of the said vacancy by the regular method of recruitment. The KAT has for the above reason, dismissed the petitioner's application. We do not find any infirmity in the order of the KAT warranting interference under Article 227 of the Constitution.

For the above reasons, this Original Petition is dismissed.

Sd/-

**K. SURENDRA MOHAN
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. To Judge

smv
04.11.2015

