

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 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

OP(KAT).No. 349 of 2015 (Z)

AGAINST THE ORDER IN OA.NO. 37/2005 OF KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM DATED 30-07-2015

PETITIONERS/APPLICANTS NO.3, 1, 5, 8, 9 & 14:

1. ABHILASH M.T.,
AGED 29 YEARS, S/O.MOHANAN, RESIDING AT PUTHAN VEEDU
T.C.30/1434, PETTAH P.O., THIRUVANANTHAPURAM
PIN-695 024.
2. KRISHNA KUMAR K.L.
AGED 28 YEARS, S/O.KUTTAN ACHARI
RESIDING AT AYATHIL SEEMA BHAVAN, VILANGARA
CHEPRA P.O., PIN -691 520.
3. RAJESH KUMAR V.,
AGED 32 YEARS, S/O.VISWANATHAN
RESIDING AT RAJESH BHAVAN, KUNDALLAM VILA
KALLIYOOR P.O., THIRUVANANTHAPURAM, PIN -695 042.
4. BINU
AGED 25 YEARS, S/O.VIJAYASIMHAN, SREEVILASATH
PANDARATHURUTHU, CHERIYAZHEKKAL P.O., KARUNAGAPPALLI
KOLLAM DISTRICT, PIN- 690 573.
5. VARUN C.,
AGED 28, S/O.CHANDRAN, SREE VARAHATHU
CHERIYAZHEKKAL P.O., KARUNAGAPPALLY, KOLLAM DISTRICT
PIN-690 573.
6. RATHEESH R.,
AGED 31 YEARS, S/O.K.RAVI, RESIDING AT HARI NIVAS
KOZHIKALLIL NEERAZHI, VEDIVECHANKOIL P.O.,
PIN-695 501.

BY ADVS.SRI.S.RADHAKRISHNAN
SRI.S.RAJ MOHAN
KUM.R.ANJALI

RESPONDENTS/RESPONDENTS :

1. THE KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY, THULASI HILLS
PATTOM PALACE P.O., THIRUVANANTHAPURAM, PIN- 695 004.
2. THE DISTRICT OFFICER
KERALA PUBLIC SERVICE COMMISSION, DISTRICT OFFICE
PATTOM, THIRUVANANTHAPURAM, PIN- 695 004.
3. THE COMMANDANT
SAP BATTALION, PEROORKKADA, THIRUVANANTHAPURAM
PIN - 695 005
4. SANTHOSH KUMAR S.L.,
SANTHOSH BHAVAN, THALLACHIRA, MEMALA P.O.,
VITHURA, THIRUVANANTHAPURAM -695 551.

R1 & R2 BY ADV. SRI.P.C.SASIDHARAN, SC
R3 BY GOVT. PLEADER SMT. REKHA VASUDEVAN

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

...3/-

OP(KAT).No. 349 of 2015 (Z)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 - A TRUE COPY OF THE ORIGINAL APPLICATION NO.37/2015 FILED ON
02.01.2015.

EXT. P2 - A TRUE COPY OF THE MISCELLANEOUS APPLICATION PRODUCING
ANNEXURES MA 1 TO MA3.

EXT. P3 - A TRUE COPY OF THE REPLY STATEMENT FILED BY THE 1ST AND
SECOND RESPONDENTS.

EXT. P4 - A TRUE COPY OF THE ORDER PASSED BY THE LEARNED KERALA
ADMINISTRATIVE TRIBUNAL IN OA NO.37/2015 DATED 30.07.2015

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

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

O.P(KAT) NO.349 OF 2015

Dated this the 16th November, 2015.

JUDGMENT

Surendra Mohan, J.

The petitioners, applicants 1,3,5,8,9 and 14 in O.A.37/2005 of the Kerala Administrative Tribunal ('KAT' for short) are the petitioners. They were applicants for advise and appointment to the post of Police Constable Driver (Armed Police Battalion, Thiruvananthapuram). They are persons included in the supplementary list that forms part of Annexure A3 rank list. The qualification stipulated is a pass in SSLC or equivalent examination as well as possession of current heavy duty vehicle licence with badge – proficiency in driving heavy motor vehicles, to be proved. A practical test was conducted by the Kerala Public Service Commission. Annexure A3 rank list was prepared after conducting an OMR test as well as a

proficiency test in driving. The marks obtained by each candidate in the driving proficiency test, according to the learned counsel for the petitioners are shown in Annexure A3 as grade marks. It is the contention of the petitioners that, the PSC seriously erred in not preparing a unified rank list as evidenced by Annexure A7 and other similar rank lists. It was also contended that, a cut off marks had been stipulated by the PSC to short list the candidates, which procedure was wrong. Therefore, they challenged the main list before the KAT. After hearing the counsel for the petitioners as well as the respondents, the KAT has dismissed the original application. The petitioners are aggrieved by Ext.P4 order of the KAT.

2. According to Adv.S.Radhakrishnan who appears for the petitioners the main list is very short and includes only 127 candidates. Thiruvananthapuram district is the district where the maximum number of vacancies of Police Drivers arises. Though the notification Ext.P1 shows that the number

of vacancies was only 4, as soon as the list was published, all 127 persons have been appointed. Since the main list has been exhausted the supplementary list cannot be worked. Therefore, it is contended that the persons who are included in the supplementary list are eliminated. The learned counsel draws our attention to the marks obtained by the persons who are included in the supplementary list to point out that, many of the persons included in the supplementary list have obtained higher grade marks than persons included in the main list. It is pointed out in particular that the persons ranked from 122 to 127 have obtained only 10 grade marks whereas persons in the supplementary list ranked 2 to 6 have obtained 30 grade marks. It is clear from the above, according to the learned counsel, that the main list has been prepared only on the basis of the marks obtained in the written test. It is contended that, the total marks should have been taken as the criterion for ranking the candidates in the main list. For the above reasons, the counsel seeks

interference with Ext.P4 order. Adv.P.C.Sasidharan, Standing Counsel for the PSC meets the contentions of the counsel for the petitioners pointing out that, the number of persons ranked in Annexure A3 was determined on the basis of the number of vacancies available at the time of preparation of the rank list. Though the number of vacancies has been shown as only 4 in Ext.P1, there were 23 vacancies at the time of preparation of the rank list. Therefore, a list of 300 candidates was prepared which is more than 5 times the vacancies reported. Thus, according to the learned counsel no prejudice has been caused to the petitioners by the manner in which the rank list was prepared. According to the learned Standing Counsel, no cut off marks was fixed by the PSC to eliminate any candidate. They had only prepared the rank list following the well accepted procedure of including five times the number of vacancies available. With respect to the contention of the learned counsel for the petitioner that a unified rank list could have been prepared as evidenced by

other rank lists like Annexure A7 to A11, it is pointed out that the practise of preparing a unified list has been discontinued for the reason that, the said procedure results in persons who are ranked lower down, getting higher ranks on the basis of the marks granted at the interview. Annexures A7 to A11 relate to 2010, 2011 etc., which practise according to the learned Standing Counsel has been discontinued. For the above reasons according to the learned counsel, no interference is called for with Ext.P4.

3. Heard. It is true that in Annexure A3, candidates from rank Nos: 1 to 127 are included in the main list while the rest of the candidates are included in the supplementary list. According to the Standing Counsel for the PSC, the total number of candidates ranked is 300 which was fixed at five times the available vacancies, which was 23 at the time of preparation of the rank list. We do not find anything wrong with the said procedure. It may be true that, all the 127 persons who are ranked in the main list have been appointed

at present. However, it does not in any way affect the legality of the procedure that was adopted of limiting the rank list to five times the number of vacancies that were available. We notice that in Ext.P1 notification the number of vacancies given is only 4. Therefore, even assuming that there are 432 vacancies at present as contended by the learned counsel for the petitioner it does not affect the legality of the procedure adopted in any manner.

4. The other contention of the learned counsel for the petitioner is that, the candidates ought to have been ranked on the basis of the total marks obtained by each of them. According to the Public Service Commission the grade marks that represent the marks obtained at the driving proficiency test, if included as a determining factor in deciding the ranking of a candidate, the same would result in persons who have obtained lesser marks in the written examination being ranked lower down in the list. We find from a perusal of the rank list Annexure A3 that the above is certain to result, if the

total marks were taken. This is for the reason that there are many persons who are included in the supplementary list who have obtained higher marks in the driving proficiency test. The written test being the criterion that is more reliable, we do not find any infirmity in the procedure that has been adopted. We remind ourselves of the fact that the driving proficiency test is taken and the marks are awarded by different persons on different dates on the basis of various criteria which do not have any uniformity. The same is akin to the marks obtained by a candidate at an interview. Therefore, the marks obtained in a written examination is more reliable as a criterion for ranking candidates. As rightly pointed out by the Standing Counsel for the Public Service Commission the process of selection undertaken is an ongoing one. As soon as the list gets exhausted, on the basis of the vacancies reported a fresh notification would be issued and a fresh selection would be undertaken which would result in the best candidates being selected.

For the foregoing reasons, we do not find any infirmity in Ext.P4 order of the KAT warranting interference therewith. The original petition is therefore dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

Sd/-
SHAJI P.CHALY
Judge

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