

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. 366 of 2015 (Z)

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AGAINST THE ORDER IN TA .NO. 5935/2012
OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM DATED 02-03-2015
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PETITIONER :

**RAJANI R.V.,
HOUSE NO.61, THANNAKKAL COLONY, VENGODE
KUDAVOOR P.O., THIRUVANANTHAPURAM - 695 313.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S) :

- 1. KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY, KPSC OFFICE, PATTOM
THIRUVANANTHAPURAM, KERALA - 695 001.**
- 2. THE SECRETARY,
KERALA PUBLIC SERVICE COMMISSION, KPSC OFFICE
PATTOM, THIRUVANANTHAPURAM, KERLA - 695 001.**
- 3. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
KIRTADS DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, KERALA - 695 001.**
- 4. SUBASH V.S.,
RESEARCH ASSISTANT, KIRTADS, CHEVAYOOR PO
KOZHIODE DISTRICT , KERALA - 675 001.**
- 5. NINA V.,
THENGUVILA PUTHUVAL PUTHEN VEEDU, EDATHEKONAM
PAYATHUVILA P.O., PIN - 695 501, KERALA.**

**R1 & R2 BY ADV. SRI.P.C.SASIDHARAN, SC
R3 BY SR. GOVT. 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:**

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APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE A : COPY OF TRANSFER APPLICATION NO. 5935/2012 WITH EXHIBITS.**
- ANNEXURE B COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 1 AND 2 IN WP(C) NO. 23459/2011 (T.A NO. 5935/2012).**
- ANNEXURE C COPY OF THE PETITION TO RECEIVE THE ADDITIONAL DOCUMENTS FILED BY THE APPLICANTS AS M.A NO. 2253/2012 IN TA NO. 5935/2012.**
- ANNEXURE D COPY OF THE PETITION TO RECEIVE THE ADDITIONAL DOCUMENTS FILED BY THE APPLICANT IN TA NO. 5935/2012.**
- ANNEXURE E COPY OF THE REJOINDER OF THE APPLICANT TO THE COUNTER AFFIDAVIT FILED ON BEHALF OF RSPONDENTS 1 AND 2 WITH PETITION.**
- ANNEXURE F COPY OF THE ADDITIONAL REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS 1 AND 2 DATED 24.2.2015.**
- ANNEXURE G COPY OF THE ORDER DATED 2.3.2015 IN TA NO. 5935/2012 PASSED BY THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.**

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

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

O.P(KAT) NO.366 OF 2015

Dated this the 8th December, 2015.

JUDGMENT

Surendra Mohan, J.

The petitioner in T.A.No: 5935/2012 of the Kerala Administrative Tribunal ('KAT' for short) has filed this original petition challenging the order of the KAT dismissing the application. The petitioner was a candidate for selection and appointment to the posts of Research Officer (Anthropology) and Lecturer in Anthropology/Sociology. The posts were notified as category Nos: 308/09 and 309/09 by the Kerala Public Service Commission ('PSC' for short) under the Special recruitment for SC/ST candidates. Respondents 4 and 5 are the candidates who were successful at the selection. The petitioner had approached the KAT aggrieved by the selection alleging that the procedure adopted by the PSC was arbitrary

and liable to be set aside.

2. The contentions of the petitioner were refuted by the PSC. A reply statement and an additional reply statement were filed setting out the procedure that was adopted for selection. According to PSC, the procedure adopted was reasonable and had resulted in selection of the best candidates. Reliance was placed on Rule 3 of the Kerala Public Service Rules of Procedure, 1976 to contend that, the PSC was entitled to follow its own procedure for selection.

3. After considering the rival contentions, the KAT found that no grounds had been made out for interference with the impugned selection. Therefore, the application filed by the petitioner was dismissed. Annexure G is the order of the KAT.

4. According to Adv.G.Sudheer who appears for the petitioner, the PSC had conducted simultaneously, selections to the very same posts under the general category as well as under the special recruitment. In the case of the general

category the selection was conducted on the basis of a written test as well as interview. The academic marks of each candidates were also added on, while making the selection. However, in the case of special recruitment no written test was conducted. The selection was entirely on the basis of an interview. The candidates were also not given the benefit of their academic marks. According to the learned counsel the selection made solely on the basis of interview was unsustainable and liable to be set aside. It is the contention of the learned counsel that, only a single interview was conducted for both the posts. In one interview, though the fourth respondent had obtained only lesser marks than the petitioner in the interview for the post of Research Assistants he was selected for the reason that he had obtained higher marks. The above fact, according to the learned counsel, clearly supports his allegation that the interview was manipulated. It is also the specific contention of the learned counsel that there is no justification for the conduct of the PSC

in adopting different procedures for selection to the very same post. In the present case, different procedures for selection were adopted for selecting candidates under the general category and special recruitment.

5. Adv.P.C.Sasidharan appears for the PSC. The Govt. Pleader appears for the third respondent. This original petition comes up before us for admission.

6. According to the Standing Counsel for the PSC, it was open to the PSC to make selection by following any of the modes stipulated by the third respondent. Interview is one of the modes. Therefore, there is nothing wrong in the PSC adopting interview as the method for selection. Though the same Board had conducted interview for both the posts notified according to the learned standing counsel, the questions that were put to the candidates were different. Separate score sheets were also given to the members of the Board. Considering the requirements of each post the performance of each candidates was assessed and evaluated.

It is only natural, according to the learned counsel, for a candidate to obtain higher marks in one interview and lower marks in the other. The difference according to the learned counsel is also not substantial, being only that of two or three marks. Therefore, nothing turns on the fact that the fourth respondent had been awarded higher marks in one interview and lower marks in the other. According to the learned standing counsel the Tribunal has declined interference on the basis of valid grounds.

7. Heard. Though a number of contentions have been raised by the counsel for the petitioner against the selection that was conducted, we remind ourselves of the fact that, the PSC is an independent Constitutional authority that is entrusted with the task of conducting selections. As rightly pointed out by the KAT, Rule 3 of the Kerala Public Service Commission Rules of Procedure empowers the PSC to conduct selections adopting any one of the methods specified therein for the purpose of assessing the merit of the candidates for

selection. The various modes stipulated are written examination, practical tests, interview etc. The Commission is empowered even to adopt any other method for assessing the merit of the candidates as it may deem fit. The selection of candidates, is the task of the PSC and it is an expert body entrusted with the said task. The power of judicial review in respect of selection is limited for the above reasons. The KAT has found nothing wrong in the procedure followed by the PSC confining the selection only to the mode of interview. We also do not find anything wrong in the procedure adopted. It is true that, in the case of recruitment to the general category a written test was also conducted. However, according to the learned standing counsel for the PSC, written tests were conducted for the reason that the number of candidates in the said selection were more. For the special recruitment, there were only 11 candidates and therefore, the selection was made on the basis of interview alone. Though the same Board had conducted interview for both posts,

according to the learned standing counsel separate score sheets were maintained for both the posts and the candidates were assessed differently, considering the nature of duties that had to be discharged in respect of each of the posts. Absolutely no material is placed before us to warrant a conclusion that, the above assertions are wrong. Therefore, we accept the explanation and find that there is nothing wrong in a common interview being conducted for both the posts.

8. Another contention seriously put forward by the counsel for the petitioner is that, the PSC was not justified in conducting a written test for recruitment to the general category while dispensing with the same in the case of special recruitment. We do not find any merit in the said contention for the reason that the PSC is entitled to stipulate its own procedure for selection as per the Rule already referred to above. Though allegations have been made against one of the members of the interview board, the said contention has

been rejected by the Kerala Administrative Tribunal for the reason that the said person is not a party. We do not find any ground to take different view.

For the foregoing reasons, we do not find any grounds to admit this original petition or to grant any of the reliefs sought for. The original petition is therefore dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

Sd/-
SHAJI P.CHALY
Judge

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