

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 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP(KAT).No. 367 of 2015 (Z)

AGAINST THE ORDER IN OA(EKM) 241/2014 of KERALA ADMINISTRATIVETRIBUNAL,
THIRUVANANTHAPURAM DATED 15-06-2015

PETITIONER/APPLICANT:

KRISHNAVENI S., REPRESENTED BY SECRETARY TO GOVERNMENT,
W/O SUNIL V., NON VOCATIONAL TEACHER IN ENGLISH (SENIOR),
GOVERNMENT VOCATIONAL HIGHER SECONDARY SCHOOL,
NEDUMON, PATHANAMTHITTA DISTRICT-691556,
RESIDING AT VARAPRADA, NEAR GURUMANDIRAM,
KOOTTIKKADA P.O., KOLLAM-691020.

BY ADVS.SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SRI.P.N.RAJAGOPALAN NAIR
SRI.P.S.GIREESH
SRI.RIYAL DEVASSY
SRI.K.K.KRISHNANKUTTY

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT OF
GENERAL EDUCATION, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. THE DIRECTOR OF VOCATIONAL HIGHER SECONDARY EDUCATION
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM-695001.
3. JANEER LAL A.J.
NON VOCATIONAL TEACHER IN ENGLISH (SENIOR), TKD MEMORIAL
HIGHER SECONDARY SCHOOL, ULIYAKOVIL, KOLLAM-691019.

BY GOVERNMENT PLEADER SRI.P.M. SANEER

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(KAT).No. 367 of 2015 (Z)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE ORIGINAL APPLICATION OA (EKM) NO.241 OF 2014 BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXHIBIT P2: TRUE COPY OF THE REPLY STATEMENT DATED 24.2.2015 FILED BY 2ND RESPONDENT IN OA (EKM) 241 OF 2014 BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXHIBIT P3: TRUE COPY OF THE MISCELLANEOUS APPLICATION MA NO.1102 OF 2015 IN O.A. (EKM) NO.241 OF 2015 FILED ON 4.5.2015 BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXHIBIT P4: TRUE COPY OF THE ORDER DATED 15.6.2015 IN OA (EKM) NO.241 OF 2014 OF THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXHIBIT P5: TRUE COPY OF THE MEDICAL CERTIFICATE DATED 2.10.2015 ISSUED BY DR.HARIKUMAR G., N.S.MEMORIAL INSTITUTE OF MEDICAL SCIENCES, PALATHARA, KOLLAM.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

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

O.P.(KAT) No.367 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

The applicant in O.A.(Ekm) No.241/2014 is the petitioner before us challenging Ext.P4 order, finally disposing of the same.

2. The petitioner is a Non Vocational Teacher in English, working in the Government V.H.SS. Nedumon, Pathanamthitta. She had sought for transfer to the Vocational Higher Secondary School, Uliyacovil, Kollam. She had sought a transfer for the reason that, according to her, she is continuing infertility treatment at Kollam. The treatment necessitates her presence in Kollam twice a week, on a regular basis. Though her name had been shown in Annexure A10 provisional list for transfer to Vocational Higher Secondary School, Uliyakovil, Kollam when the final order Annexure A2 was issued, she was posted to Nedumon at Pathanamthitta. She had filed O.A.

No.241 of 2014 before the Kerala Administrative Tribunal ("KAT" for short) challenging Annexure A2. As per Ext.P4 order, the KAT has disposed of the Original Application directing the 1st respondent to consider and pass orders on the representation preferred by her by a speaking order dealing with the various contentions raised, relying on the transfer norms. No time limit has stipulated for passing final orders in the matter.

3. According to Sri.Ashok B. Shenoy who appears for the petitioner, the petitioner had earlier approached the KAT twice. On both the occasions, her applications had been disposed of directing her contentions to be considered. Accordingly her contentions were considered and by Annexure A11 dated 19.4.2014, the transfer of the 3rd respondent has been sustained. It is the contention of the learned counsel for the petitioner that, the 3rd respondent is junior to the petitioner. Reliance is placed on Annexure A7 transfer norms to contend that all circumstances being equal, it was the senior who ought to have been preferred. Instead, the 3rd respondent has been granted transfer.

According to Annexure A11, it is stated that the 3rd respondent had been preferred, since his younger brother was suffering from cancer. According to the learned counsel for the petitioner, Annexure A11 itself shows that the medical certificate produced by the 3rd respondent was of the year 2008. Therefore, there is no evidence on record to show that the treatment was continuing. In view of the above, the counsel seeks interference with Ext.P4.

4. We have heard the learned Government Pleader also.

5. A perusal of Ext.P4 order shows that, the KAT has not considered the contentions put forward by the petitioner, on the merits. Her claim for preference in the matter of posting, over the 3rd respondent is a matter that would have to engage the attention of the authority. Obviously, it is for the said reason that, the representation submitted by the petitioner has been directed to be considered. We find no infirmity in the order of the KAT warranting interference therewith. However, since it is

admitted by both sides that no orders have been passed in compliance with the directions in Ext.P4 order till date, it is necessary to stipulate a time limit for passing final orders in the matter.

In view of the above, this writ petition is disposed of directing the 1st respondent to pass orders in compliance with the direction contained in Ext.P4, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

**K. SURENDRA MOHAN
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. To Judge

smv
09.12.2015