

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

OP(KAT) .No. 421 of 2014 (Z)

AGAINST THE ORDER IN TA 538/2013 of KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM DATED
23-10-2014.

PETITIONER(S) /APPLICANTS:

1. B. SHINE BOSE,
BOSE BUILDING, CHENGOTTUKONAM, CHEMPAZHANTHY P.O.,
THIRUVANANTHAPURAM.

2. MUMTHAJ.S.K.,
PUTHUVETTIL HOUSE, CHIRANELLOOR P.O., KECHERY,
THRISSUR.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENT(S) /RESPONDENTS:

1. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM, KERALA-695001.

2. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA-695001.

3. THE DIRECTOR OF VOCATIONAL HIGHER SECONDARY
EDUCATION,
THIRUVANANTHAPURAM, KERALA-695001.

4. UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR,
THIRUVANANTHAPURAM (IS IMPEADED AS ADDL.R4 AS PER
ORDER DT.12-7-2011 IN IA 11046/2011),
KERALA-695001.

R1 - BY SRI.P.C.SASIDHARAN, SC, KPSC
R2& R3 BY SENIOR GOVERNMENT PLEADER
SRI. T. RAMAPRASAD UNNI
R4 - BY SRI.BECHU KURIAN THOMAS, SC,
UNIVERSITY OF KERALA

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING
COME UP FOR ADMISSION ON 12-01-2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

OP(KAT) .No. 421 of 2014 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER DT.23-10-14 IN TA 538/13.

EXT.P2: TRUE COPY OF TRANSFERRED APPLICATION NO.538/13
(WPC 4488/2011) ALONG WITH EXHIBITS.

EXT.P3: TRUE COPY OF ADDITIONAL AFFIDAVIT FILED ON
18-2-2011 BY THE PETITIONERS.

EXT.P4:TRUE COPY OF ADDDDITIONAL AFFIDAVIT FILED ON
8-7-2011 BY THE PETITIONERS.

EXT. P5: TRUE COPY OF COUNTER AFFIDAVIT FILED ON
27-9-2011 BY R1.

RESPONDENT(S) ' EXHIBITS

NIL

//true copy//

P.S. to Judge

“C.R.”

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

O.P. (KAT) No.421 of 2014

Dated this the 12th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard the learned counsel for the petitioners, the learned Standing Counsel for the Kerala Public Service Commission and the learned Senior Government Pleader.

2. The petitioners applied for being considered for recruitment to the post of Vocational Teacher in Office Secretaryship, in terms of a P.S.C. Notification dated 30/11/2009. That is a teaching post. Petitioners possessed two among the three mandatory qualifications. As regards the requirement of M. Com.

Degree, the question raised is as to whether the petitioners who had obtained M.Com. Degree under a correspondence course from Annamalai University are entitled to have that qualification treated as equivalent to the qualification of M.Com. Degree of the University of Kerala, for the purpose of that post. Note 1 under Rule 4 of the Kerala Vocational Higher Secondary Education Subordinate Service Rules, 2004, which are statutory rules in terms of the provisions of the Constitution of India and the Kerala Public Services Act, 1968, specifically provides as follows:

“All the educational qualifications for teaching posts should be one acquired after a regular course of study from a recognised University in Kerala or recognised as equivalent thereto by any one of the Universities in Kerala.”

3. The learned counsel for the petitioners argued that once the equivalence of the qualification is certified by the University of Kerala, the M.Com. Degree of the

Annamalai University ought to have been treated as equivalent to the M.Com. Degree of the University of Kerala. But, the fact of the matter remains that the aforequoted Note under Rule 4 of the Special Rules provides that the qualification should be one acquired after a regular course of study. Remember, we are dealing with recruitment to a teaching post. If we are to dissect the aforequoted rule and hold that a correspondence course from any other University will be equivalent to a degree obtained after a regular course of study from a University in Kerala, the situation will be contradictory. We say so because, if we adopt such a view, while a candidate qualifying from a University in Kerala should be one who had undergone a regular course of study, a candidate who obtains a degree from any University outside Kerala would be eligible without undergoing a regular course of study. It would be fallacious if we were to hold so. The very purpose of having the prescription that one should have acquired the educational qualification after a regular course of study is consciously made by the Government

in the Special Rules, having regard to the objects sought to be achieved; that is to say, to pick up competent hands to man the teaching posts.

4. In the aforesaid view of the matter, we do not find any error of jurisdiction, legal infirmity or perversity in the reasoning of the learned Tribunal in interpreting the relevant rules. Hence, we see no ground to interfere with the impugned decision of the Tribunal which holds that in so far as teaching posts are concerned the candidate should have obtained the M. Com. Degree after undergoing a regular course of study. The original petition filed under Article 227 of the Constitution of India, therefore, fails.

In the result, this original petition is dismissed.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge