

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WA.No. 626 of 2010 ()

JUDGMENT DATED 19-02-2010 IN WP(C).NO.20605/2003.
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**APPELLANT/RESPONDENT NO.5 AND A THIRD PARTY
WITH APPLICATION FOR LEAVE TO APPEAL:**

- 1. M. RAJAN,
RESERVE INSPECTOR OF POLICE,
DISTRICT ARMED RESERVE, ALAPPUZHA.**
- 2. V. PUSHPAKUMAR,
RESERVE INSPECTOR OF POLICE,
DISTRICT ARMED RESERVE,
COCHIN CITY, ERNAKULAM.**

BY ADV. SRI.B.UNNIKRISHNA KAIMAL.

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 4 IN THE WRIT PETITION:

- 1. J. SURESH KUMAR,
RESERVE SUB INSPECTOR OF POLICE,
(NOW ON DEPUTATION AS SECURITY OFFICER,
GOVERNMENT PRESS, MANNANTHALA,
THIRUVANANTHAPURAM).**
- 2. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM.**
- 3. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.**
- 4. D.I.G. OF POLICE (ADMIN), POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM.**
- 5. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY SECRETARY,
KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI.KALEESWARAM RAJ.
R2 TO R4 BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.
R5 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 10-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE I COPY OF THE COMMON JUDGMENT OF THIS HONOURABLE
COURT IN O.P. NO. 5818/2002 AND OTHERS DATED 29/08/2006.**

**ANNEXURE II COPY OF THE ORDER DATED 08/01/2010 OF THE HONOURABLE
SUPREME COURT IN S.L.P.(CIVIL) NOS.1500-1504/2008.**

RESPONDENT'S ANNEXURES:-

NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

ASHOK BHUSHAN, Ag.C.J.

&

A.M. SHAFFIQUE, J.

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Dated this the 10th day of February, 2015

JUDGMENT

A.M.Shaffique, J.

This is an appeal filed against the judgment of the learned Single Judge in WP(C) No.20605 of 2003. The 5th respondent and a third party who sought leave to file appeal are the appellants.

2. The short facts involved in the writ petition disclose that the petitioner in the writ petition was a Reserve Sub Inspector of Police in the Police Department, Government of Kerala. Petitioner joined service on 01.08.1994 and completed his training on 30.04.1995.

3. Seven persons were appointed by direct recruitment as well. The issue in the writ petition was with reference to the seniority list of the Reserve Sub Inspector dated 01.09.1996. Petitioner sought for review

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of Ext.P6 seniority list and to assign the seniority due to the petitioner on the basis of advice memo by placing the petitioner above the 29 officers who were allowed to be retained in service on the basis of Ext.P5.

4. The learned Single Judge, after having considered the matter in detail, relying upon the judgment in **State of Kerala and another v. Krishna Kumar T.G.** [2009 (3) KHC 137 (DB)] found that the petitioner is entitled to seniority over the 29 persons under law. It was declared so and there was a direction to revise Ext.P6 seniority list accordingly.

5. In this appeal it is inter alia contending that, by virtue of an earlier judgment dated 29.08.2006 in W.A Nos.2189, 2190 and 2191 of 2002, OP Nos.3596 of 1999, 31240 of 2001 and 5818 of 2002 (Annexure I), a Division Bench of this Court have considered the very same seniority list. The final observation of the Division Bench is as follows:

“25. In such Circumstances, Writ Appeals have to be dismissed and OP No.31240/01 challenging Ext.P7 has to be allowed in part as against those in excess of the 1st 7 persons advised from Ext.P2 list, pursuant to the interim orders.”

6. In this appeal it is contended that the judgment of the learned Single Judge is liable to be set aside. The learned counsel also brought to the notice of this Court the order in an appeal filed against the judgment of the Division Bench of this Court and the Apex Court in SLP Nos.1500-1504 of 2008 by judgment dated 29.11.2010 upheld Annexure -I judgment.

7. Heard learned counsel for the appellants, learned Government Pleader and learned counsel appearing for the petitioner in the writ petition as well.

8. Having regard to the fact that Ext.P6 seniority list has already been modified by the Division Bench of this Court in Annexure I judgment and which has been upheld by the Supreme Court, the same view has to be taken in the present appeal as well. Accordingly,

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judgment of the learned Single Judge stands modified to the extent to which the seniority list has been modified by the Hon'ble Supreme Court. It is also brought to the notice of this Court that the provisional seniority list has been prepared based on the aforesaid judgment. It is needless to state that if any person is aggrieved by the same, it is open for them to submit necessary objection and challenge the validity of the same in accordance with the procedure prescribed.

With this observation, the Writ Appeal is disposed of.

Sd/-
ASHOK BHUSHAN,
ACTING CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

das