

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WA.No. 653 of 2010 IN WP(C).19196/2003

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AGAINST THE JUDGMENT IN WP(C) 19196/2003 DATED 6-11-2009

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APPELLANT/PETITIONER IN THE WRIT PETITION :

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K.SASIDHARAN, SUPERINTENDENT,  
STATE MUSEUMS AND ZOO, THRISSUR.

BY ADV. SRI.SAJITH KUMAR V.

RESPONDENTS/RESPONDENTS IN THE WRIT PETITION :

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1. STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT  
CULTURAL AFFAIRS DEPARTMENT, SECRETARIAT  
THIRUVANANTHAPURAM.
2. THE DIRECTOR OF MUSEUMS AND ZOO,  
THIRUVANANTHAPURAM.
3. K.JAYAN, SUPERINTENDENT,  
GARDEN SECTION, OFFICE OF THE DIRECTOR OF  
MUSEUMS AND ZOO, THIRUVANANTHAPURAM.

R1 & R2 BY SR.GOVERNMENT PLEADER SRI. P.I. DAVIS  
R3 BY ADV. SRI.B.RAGUNATHAN  
R3 BY ADV. SMT.P.RETNAKUMARI  
R3 BY ADV. SRI.G.GOPALAKRISHNA PILLAI  
R3 BY ADV. SRI.R.SRINATH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05-06-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.**

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W.A. No. 653 OF 2010  
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Dated this the 5<sup>th</sup> day of June, 2015

**JUDGMENT**

**Ashok Bhushan, C.J.**

Heard learned counsel for the appellant and learned Government Pleader. This writ appeal has been filed against the judgment dated 16.11.2009 in W.P.(C) No. 19196 of 2003.

2. The appellant and 3<sup>rd</sup> respondent were appointed as Curator Gr.II on the advice of Kerala Public Service Commission on the same date. The petitioner and 3<sup>rd</sup> respondent were given promotion on different posts and ultimately were promoted as Superintendent. The petitioner had come to this Court on an earlier occasion also and by judgment dated 19.10.2001 the petitioner was permitted to represent the matter for settlement of seniority. Consequent to the order of this Court, parties were heard and order was issued on 23.04.2003 rejecting the petitioner's claim for seniority

against which order, W.P.(C) No.19196 of 2003 was filed.

3. Learned Single Judge, by the impugned judgment, held that both the petitioner as well as 3<sup>rd</sup> respondent having been advised and joined on the same day and 3<sup>rd</sup> respondent being older in age, the Government has rightly accepted the claim of 3<sup>rd</sup> respondent for seniority. Learned counsel for the appellant contended that though both of them were advised on the same day, the 3<sup>rd</sup> respondent discontinued the service due to lack of vacancy, but the petitioner was in service continuously.

4. Learned Government Pleader submits that according to Rule 27A of the Kerala State and Subordinate Services Rules, 1958, the effective date for consideration of seniority is the date of advice. In the present case the date of advice being same, seniority

shall be covered by the age. Admittedly the 3<sup>rd</sup> respondent is older in age hence no fault can be found in accepting the claim of 3<sup>rd</sup> respondent.

We do not find any error in the judgment of learned Single Judge so as to exercise the writ jurisdiction in this case. The Writ Appeal is dismissed.

**Ashok Bhushan,  
Chief Justice.**

**A.M. Shaffique,  
Judge.**