

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WA.No. 466 of 2013 () IN WP(C).12250/2010

AGAINST THE ORDER/JUDGMENT IN WP(C) 12250/2010 of HIGH COURT OF KERALA
DATED 18-01-2013

APPELLANT(S)/PETITIONERS:

1. RATHEESH O.R,
PUTHUVAN NIKARATH HOUSE, EZHUPUNNA SOUTH P.O.
CHERTHALA.

2. ASHARAF,Y,
MAJIDA MANZIL, VADAKKUMTHALA EAST,
VADAKKUMTHALA WEST P.O., KARUNAGAPALLY
KOLLAM DISTRICT.

3. SAHAYARAJ A.,
VENTHAPALAYAM, ATHICODE P.O., PALAKKAD-678 554.

4. RAJESH O.P.,
PUTHUVAL NIKARATHIL HOSUE, EZHUPUNNA SOUTH P.O.
CHERTHALA.

5. SREEDESH T.G.,
MELEVEEDUKALAM, ERATTAKULAM P.O., ELAPALLY VIA,
PALAKKAD.

6. RAJESH N.R.,
NIKATHIL HOUSE, CHEMESTRY ROAD, CHERUVAIPU
AYYAMPILLY P.O., ERNAKULAM DISTRICT.

BY ADVS.SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.T.S.SHYAM PRASANTH
SRI.BRIJESH MOHAN

RESPONDENT(S)/RESPONDENTS:

1. KERALA PUBLIC SERVICE COMMISSION,
PATTOM, TRIVANDRUM, REPRESENTED BY ITS SECRETARY.695004

2. KERALA STATE ELECTRICITY BOARD,
VYDUTHI BHAVNA, PATTOM, TRIVANDRUM
REPRESENTED BY ITS CHIEF SECRETARY.

3. THE CHIEF ENGINEER-HR,
KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVAN
PATTOM, TRIVANDRUM.

4. SMT. BABITHA PARAMBATH,
THATTAMKUNNATH HOUSE, PERINGADI P.O., KANNUR-673 312.

5. SYAMKUMAR,K, S/O. KARUNAKARAN PILLAI,
METER READER/SPOT BILLER, KERALA STATE ELECTRICTY
BOARD, PERUMBAVOOR SECTION, PERUMBAVOOR,
ERNAKULAM DISTRICT. PIN. 683 542.

6. ELDO, K.M., METER READER/SPOT BILLER,
KERALA STATE ELECTRICTY BOARD, MOOVATTUPUZHA,
ERNAKULAM DISTRICT. PIN 683 542.

R BY SRI.S.SUJIN
R BY SRI.P.C.SASIDHARAN, SC, KPSC
R BY SRI.K.S.ANIL, SC, KSEB

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 04-08-2015,
ALONG WITH W.P.(C) NO.20113/2013 ALONG WITH OTHER CONENCTED CASES THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

**W.A.Nos.466, 564,787 of 2013 &
W.P.(C)No.20113 of 2013**

Dated this the 4th day of August, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

W.A.Nos.466/2013 & 787/2013 are against the judgment rendered in W.P.(C)No.12250/2010 and WA.No.564/2013 is against the judgment in W.P.(C) No.29590/2011, both those writ petitions having been decided through a common judgment rendered along with yet another writ petition.

2. Heard the learned senior counsel appearing for the different appellants, learned counsel appearing for the Public Service Commission, learned counsel appearing for the Kerala State Electricity Board, learned counsel appearing for the appointed candidates and the learned Government Pleader.

3. The common judgment impugned in the writ appeals stands applying the judgment of a learned single Judge in

Suresh Kumar B. and Others v. Kerala Public Service Commission and Others [2012 (4) KHC 83]. That decision has been reversed today by the Division Bench as per the judgment rendered in W.A.Nos.1874 of 2012 & 2193 of 2012; rendered on the question of comparable qualification, apart from the issue of non-joinder of necessary parties.

4. The category, to which the recruitment is sought to be made in the cases in hand, is of Meter Reader/Spot Biller in the KSEB. The general qualification prescribed for that post is 8th Std. and the technical qualification is National Trade Certificate in three different branches. The promotion category from that post also carries the same qualification. Higher up the ladder, aspirants can proceed to become Junior Sub Engineers. On acquisition of further qualification, they could even aspire for further move towards higher category in the service of the KSEB. So much so, the judgment rendered today in W.A.Nos.1874 of 2012 & 2193 of 2012, following the decision of the Hon'ble Supreme Court in **Jyoti K.K. & Ors. v. Kerala Public Service Commission & Ors** [JT 2002 (Suppl.1) SC 85], governs these cases as well.

5. However, there is no appeal by any party challenging the judgment of the learned single Judge in so far as it is in favour of the writ petitioners. Be that as it may, we may note that the learned single Judge had confined relief granted to the writ petitioners excluding its operation from those persons who have already been appointed. This has been done on the premise that those persons are not in the array of parties. The fact is that all such persons were parties to the writ petitions. This appears to have been lost sight of during the submissions before the learned single Judge. Be that as it may, having regard to the fact that the fundamental basis of the impugned judgment would not stand by itself, it would be not permissible for us to modify the judgment to bring relief to the writ petitioners.

In the result, these writ appeals are accordingly dismissed, however, clarifying that the dismissal of these writ appeals, including on the ground of non-joinder of parties otherwise on merits, would not stand in the way of advices being issued as against any vacancy which remains unfilled and which could be filled from the rank list already published. It is so ordered. As a consequence, W.P.(C) No.20113/2013 is ordered directing that

the incumbents, who have already been appointed, shall not be disturbed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.

