

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

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WA.No. 2060 of 2010 IN WP(C).28009/2010

AGAINST THE JUDGMENT IN WP(C) 28009/2010 DATED 08-10-2010

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APPELLANT/PETITIONER IN THE WPC :

C.V. GEETHA, LAST GRADE SERVANT
LOCAL FUND AUDIT, KERALA AGRICULTURAL UNIVERSITY
MANNUTHY, THRISSUR.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS/RESPONDENTS IN THE WPC :

1. THE KERALA PUBLIC SERVICE COMMISSION,
PATTOM THIRUVANANTHAPURAM REPRESENTED BY ITS
SECRETARY - 695 004.
2. THE SECRETARY TO GOVERNMENT,
PERSONNEL & ADMINSTRATIBVE REFORMS (RULES) DEPT.
GOVERNMENT OF KERALA SECRETARIAT,G.P.O.,
THIRUVANANTHAPURAM - 695 001.
3. STATE OF KERALA, REPRESENTED BY CHIEF
SECRETARY TO GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
4. THE DIRECTOR, LOCAL FUND AUDIT
DEPARTMENT, G.P.O., VIKHAS BHAVAN,
THIRUVANANTHAPURAM - 695 033.

R1 BY SRI. P.C.SASIDHARAN, SC, KPSC.
R2 TO R4 BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 2060 OF 2010

Dated this the 8th day of January, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

Heard learned counsel for the appellant. This appeal has been filed against the judgment dated 08.10.2010 in W.P. (C) No.28009 of 2010.

2. The writ petition was filed by the petitioner/appellant seeking a mandamus directing respondents to grant seniority to the petitioner taking into account the service put in by her as Last Grade Servant in the Regional office of the Public Service Commission at Ernakulam. Petitioner was initially advised for appointment as Peon in the Public Service Commission. She was appointed in the headquarters vacancy at Ernakulam. Thereafter she was transferred to Thrissur District. After two years service in Thrissur, she was transferred to Thiruvananthapuram. Petitioner made a request for inter department transfer to Local Fund Audit Department at Thrissur. Petitioner's request was allowed and she was posted at Thrissur in the Local Fund

Audit Department. The learned Single Judge considered the reliefs claimed in the writ petition and had held that petitioner's appointment in Public Service Commission cannot govern the seniority in the Local Fund Audit Department. The writ petition was consequently dismissed.

3. Learned counsel for the appellant in support of the writ appeal has placed reliance on Rule 14 of the Special Rules for Last Grade Service which reads as under:

"14. Seniority.- (a) Seniority of a member in any category of the service shall, unless he has been reduced to a lower rank as punishment, be determined by the date of the order of his first appointment to such category:

Provided that if any portion of the service of such person does not count towards probation under the rules, his seniority shall be determined by the date of commencement of his service which counts towards probation.

(b) The Appointing Authority shall, at the time of passing an order appointing two or more persons simultaneously to the service, fix the order of preference among them; and seniority shall be determined in accordance with it.

(c) Notwithstanding anything contained in clauses (a) and (b) above, the seniority of a person appointed to a category in the service on the advice of the Commission shall, unless he has been reduced to a lower rank as punishment, be determined by

the date of first effective advice made for his appointment to such category and when two or more persons are included in the same list of candidates advised, their relative seniority shall be fixed according to the order in which their names are arranged in the advice list.

Note (1).- The date of effective advice in this rule means the date of the letter of the Commission on the basis of which the candidate is appointed.

Note (2).- Seniority of a person advised by the District Office of the Kerala Public Service Commission for appointment against a vacancy in Headquarters and transferred after such appointment to the District of the choice shall be determined with reference to the original advice by the District Office of the Public Service Commission."

4. Learned counsel for the appellant has placed reliance on Note 2 of Rule 14 of the Special Rules in support of the claim of the appellant that the service in Kerala Public Service Commission also has to be reckoned for the purpose of seniority. From the facts as noted above, it is clear that petitioner has sought inter department transfer in the Local Fund Audit Department. Petitioner having relied on Note 2 of Rule 14 has submitted that with regard to seniority of a person advised by the District Office of the Kerala Public Service Commission for appointment against the headquarters vacancy and transferred

after such appointment to the District of her choice not to be contemplated as an employee continued in the service of the Kerala Public Service Commission. Said circumstance is not available here since the petitioner has taken inter department transfer on her own request. Learned Single Judge did not commit any error in denying the claim as raised in the writ petition.

We do not find any merit in the appeal and the Writ Appeal is dismissed.

**Ashok Bhushan,
Acting Chief Justice.**

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

WA No. 2060 of 2010

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