

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WAno. 268 of 2015 IN WP(C).27806/2013

AGAINST THE JUDGMENT IN WP(C) 27806/2013 of HIGH COURT OF KERALA DATED 19.11.14

APPELLANT/PETITIONER:

MOHAMMED BASHEER K
NEELACHODIYIL VEEDU, NETHAJI ROAD, THENHIPALAM P.O
MALAPPURAM.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS/RESPONDENTS:

1. THE UNIVERSITY OF CALICUT
REPRESENTED BY ITS REGISTRAR, THENHIPALAM, MALAPPURAM.
2. THE VICE CHANCELLOR,
UNIVERSITY OF CALICUT, THENHIPALAM, MALAPPURAM.
3. THE LBS CENTRE
FOR SCIENCE AND TECHNOLOGY, NADAVANAM, PALAYAM
THIRUVANANTHAPURAM-695 033
REPRESENTED BY ITS DIRECTOR.

Addl.4. SABU C.M.
S/O.C.D. MARIYAN, RESIDING AT CHEMBAKKATTU HOUSE
THYCKAL P.O, CHERTHALA, ALAPPUZHA DISTRICT.
(ADDL.R4 IMPEADED AS PER ORDER DATED 12.03.2013 IN I.A.342/15.)

R3 BY ADV. SMT.K.K.RAZIYA, SC, LBS CENTRE
R BY SMT. BINDUMOL JOSEPH
R BY SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS
R BY SRI.K.P.SUJESH KUMAR, SC, LBS CENTRE FOR SCIENCE & TECH.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-06-2015, ALONG
WITH WA. 682/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal Nos.268 & 682 of 2015

Dated this the 1st day of June, 2015

JUDGMENT

Antony Dominic, J.

These writ appeals are filed against the common judgment of the learned Single Judge dismissing Writ Petition Nos.27806/13 and 22326/13 by which certain candidates who applied in the respondent University for appointment to the post of Peon/Watchman in response to the notification dated 26.6.2005 challenged the screening test that was held by University in 2013 pursuant to the judgment of this Court in W.A.No.1484/12. By judgment under appeal, the learned Single Judge disposed of the writ petition and hence these appeals.

2. We heard the counsel for the appellants, Standing Counsel for the University and also the counsel appearing for the party respondents.

3. Facts, to the extent that are required are thus; on 26.6.2005 without specifying the exact number of vacancies, notification for recruitment to the post of Peon/Watchman was issued by the University and applications were invited. Written test was conducted on 17.8.2008 in which about 3900 candidates qualified. Interview was scheduled and at that stage several litigations were instituted by various candidates. Finally,

by judgment in W.A.1484/12, this Court disposed of the writ appeal directing that considering the number of vacancies that were available, since the number candidates qualified was too large, the University was free to conduct a further screening test. Accordingly, a further screening test was conducted by the University in 2013. It was thereafter that these writ petitions were filed by the candidates who have participated in the screening test. The writ petitions were disposed of by the judgment under appeal.

4. The first contention raised by the learned counsel for the appellants is that considering the fact that the post notified in Peon/Watchman and that the qualifications prescribed for the post is ability to read and write, instead of OMR test it should have been a descriptive test. Counsel also contended that the questions in the subject of Mathematics were too tough and vague for the candidates to answer. Learned counsel also contended that originally the marks prescribed was 100 marks for written test and 20 for interview. But later, the questions related to basic English for 25 marks were excluded and that the mark left for written test was only 75. This according to

the learned counsel for the appellants amounted to alteration of the Rules after the selection process had commenced. On these grounds, the learned counsel impugn the selection and the judgment under appeal.

5. However, we are unable to accept any one of the contentions. As rightly held by the learned Single Judge, qualification prescribed for being ability to write, it was essentially for the University to decide on the mode of examination, either descriptive or O.M.R. Therefore, since it is for the University to decide the mode of examination and this Court cannot sit in appeal over the discretionary power of the University which is the competent authority. Therefore, we do not find any fault with the method adopted in the recruitment process. It is true that the questions have been asked from the subject of Mathematics. But, however, we cannot invalidate the process of screening test on the ground that the question was tough or it was vague, primarily for the reason that the toughness or otherwise of the questions cannot be assessed by this Court and vagueness alleged is not established.

6. In so far as the reduction in total marks is concerned, the background in which it was conceded is that there were questions in English for 25 marks. However, the University conceded in Court to exclude those questions and that resulted in reduction in marks from 100 to 75. We have already seen that the recruitment process was initiated by the University way back in 2005. But even in 2015, said process is not complete. It was in order to redress the grievance of the complainants, the University made a concession to exclude the questions in English and all candidates are equal beneficiaries of that concession. Therefore, we do not find anything illegal in that action of the University.

We do not find any illegality in the conclusions of the learned Single Judge. Writ appeals are accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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P.A. to Judge