

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 5886 of 2011 (I)

PETITIONER:

SUMA DEVI, RECEPTIONIST,
KTDC CORPORATE OFFICE, TRIVANDRUM
RESIDING AT "SINDOORAM", PRIYADARSHINI GARDENS
TRIVANDRUM.

BY ADV. SMT. AYSHA YOUSEFF
SMT. MOLLY JACOB
SMT. RABIA BEEGAM T.K.
SRI. JOBI. A. THAMPI
SMT. M. KABANI DINESH
SRI. SREEKANTH C. NAIR

RESPONDENTS:

1. MANAGING DIRECTOR, KTDC
KERALA TOURISM DEVELOPMENT CORPORATION LTD.
MASCOT HOTEL, THIRUVANANTHAPURAM-695 033.
2. KERALA TOURISM DEVELOPMENT CORPORATION,
MASCOT HOTEL, THIRUVANANTHAPURAM-695 033.
3. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA
TOURISM DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

Addl.4. RAMESH KUMAR.G
SENIOR OFFICE ASSISTANT, MARKETING DIVISION
CORPORATE OFFICE, KTDC, THIRUVANANTHAPURAM.

Addl.5. B.R. RABITHA KURUP
HOUSE KEEPER, MARKETING DIVISION, CORPORATE OFFICE
KTDC, THIRUVANANTHAPURAM ADDL.R4 AND R5 ARE IMPEADED AS PER
ORDER DATED 28.11.2014 IN IA 16186/14.

Addl.6. SANTHOSH KUMAR S
UNIT OFFICER, MOTEL ARAAM
KERALA TOURISM DEVELOPMENT CORPORATION LTD.(K.T.D.C)
KRISHNAPURAM PO., KAYAMKULAM.

ADDL.R6 IMPEADED AS PER ORDER DATED 12.01.2015 IN IA 131/15.

R1-2 BY ADV. SRI.P.A.AHMED, SC FOR KTDC LTD.
R3 BY SPL. GOVERNMENT PLEADER SRI A.K. JOHN
ADDL.4 & R5 BY ADV. SRI.B.UNNIKRISHNA KAIMAL
ADDL.R6 BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
ADDL.R6 BY ADV. SMT.N.SANTHA
ADDL.R6 BY ADV. SRI.K.A.BALAN
ADDL.R6 BY ADV. SRI.PETER JOSE CHRISTO
ADDL.R6 BY ADV. SRI.S.A.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.5886/2011

PETITIONER'S EXTS:

- EXT.P1: COPY OF DEGREE CERTIFICATE OF DIPLOMA IN MARKETING MANAGEMENT ISSUED BY THE KERALA UNIVERSITY.
- EXT.P2: COPY OF CIRCULAR DT.24.7.10.
- EXT.P3: COPY OF APPLICATION DT.12.8.10 SUBMITTED BY THE PETITIONER TO THE RESPONDENTS.
- EXT.P4: COPY OF ANNEXURE TO THE GOVERNMENT ORDER GO(MS) NO.48/11/TSM DT.14.2.2011.
- EXT.P4(A): COPY OF ANNEXURE ATTACHED TO EXT.P4.
- EXT.P5: COPY OF CIRCULAR DT.16.2.2011 ISSUED BY THE 1ST RESPONDENT.
EXT.P5(A): COPY OF APPLICATION DT.21.2.2011 SUBMITTED BY THE PETITIONER BASED ON EXT.P5.
- EXT.P6: COPY OF GO(MS)NO.222/2010/TSM DT.26.2.2010.
- EXT.P7: COPY OF CIRCULAR DT.3.2.2011.
- EXT.P8: COPY OF PROMOTION ORDER DT.21.2.2011 PROMOTION ANU P.CHACKO AS MANAGER GRADE IV.
- EXT.P9: COPY OF CERTIFICATE OF ANU P.CHACKO OBTAINED UNDER RIGHT TO INFORMATION ACT.
- EXT.P10: COPY OF INFORMATION OBTAINED UNDER THE RIGHT TO INFORMATION ACT FROM THE KERALA UNIVERSITY.
- EXT.P11: COPY OF REPRESENTATION DT.21.2.2011 SUBMITTED TO THE MINISTER FOR TOURISM BY THE PETITIONER.
- EXT.P11(A): COPY OF REPRESENTATION DT.22.2.2011 SUBMITTED TO THE MANAGING DIRECTOR OF THE 1ST RESPONDENT.
- EXT.P12: COPY OF RELEVANT PORTION OF THE SCHEME.
- EXT.P13: COPY OF ORDER NO.KTDS/PA(3)PP/3750/2011 DT.24.2.2011 ISSUED BY THE 1ST RESPONDENT.
- EXT.P14: COPY OF RELEVANT PORTION PROSPECTUS ISSUED BY THE UNIVERSITY OF KERALA IN RESPECT OF ADMISSION TO PG DIPOMA IN MARKETING MANAGEMENT COURSE.
- EXT.P14(A): COPY OF RELEVANT PORTION OF THE PROSPECTUS ISSUED BY THE UNIVERSITY OF KERALA IN RESPECT OF ADMISSION TO MBA COURSE.
- EXT.P15: COPY OF LETTER NO.PRO/PIO/RTI/1079/2011 DT.23.3.2011 ISSUED BY PUBLIC INFORMATION OFFICER, KERALA UNIVERSITY.
- EXT.P15(A): COPY OF LETTER NO.PRO/PIO/RTI/1080/2011 DT.23.3.2011 ISSUED BY PUBLIC INFORMATION OFFICER, KERALA UNIVERSITY.
- EXT.P16: COPY OF GO(MS)NO.311/2014/TSM/DT.11.11.2014 ISSUED BY THE 3RD RESPONDENT ALONG WITH RELEVANT PORTION OF THE RULES APPENDED THERETO.

RESPONDENT'S EXTS:

- EXT.R1(A): COPY OF BOARD RESOLUTION NO.5461 DT.3.7.09.
- EXT.R1(B): COPY OF BOARD RESOLUTION NO.5462 DT.3.7.09.
- EXT.R1(C): COPY OF ORDER GO(MS)NO.48/2011/TSM DT.14.2.2011.
- EXT.R1(D): COPY OF DECISION TAKEN BY THE BOARD REF.NO.BM/172/8 (RESOLUTION NO.3454) DT.8.6.92.
- EXT.R1(E): COPY OF ORDER GO(MS)NO.222/2010/TSM DT.22.6.2010 AND EXTRACT OF RELEVANT PORTION.
- EXT.R1(F): COPY OF ANNEXUE ATTACHED TO EXT.R1(C) (QUALIFICATION PRESCRIBED FOR MARKETING MANAGER, ETC.)
- EXT.R1(G): COPY OF CIRCULAR NO.KTDS/PA(3)/111/10 DT.24.7.10.
- EXT.R1(H): COPY OF RELEVANT PORTION OF GENERAL RULES.
- EXT.R1(I): COPY OF LETTER NO.AP-RTI/064/2010.
- EXT.R1(J): COPY OF LETTER NO.PRO/P10/RTI/2440/2010 DT.25.9.2010.
- EXT.R1(K): COPY OF LETTER NO.KTDS/PA(3)5282/09 DT.20.8.09.
- EXT.R1(L): COPY OF MODE OF RECRUITMENT.
- EXT.R1(M): COPY OF CIRCULAR NO.KTDC/PA(3)/III/2010 DT.16.2.2011.
- EXT.R1(N): COPY OF RELEVANT PORTION OF CHANNEL OF PROMOTION.
- EXT.R4(A): COPY OF APPLICATION DT.12.8.10 SUBMITTED BY THE 1ST APPLICANT TO RESPONDENTS 2 & 3 ALONG WITH BIO DATA.
- EXT.R4(B): COPY OF APPLICATION DT.12.8.10 SUBMITTED BY THE 2ND APPLICANT TO RESPONDENTS 2 & 3 ALONG WITH BIO DATA.

TRUE COPY

P.S.TO JUDGE

ANIL K.NARENDRA, J

W.P.(C)No.5886 Of 2011

DATED THIS THE 9th DAY OF JULY , 2015

JUDGMENT

The petitioner who was working as Receptionist in the Kerala Tourism Development Corporation (hereinafter referred to as the 2nd respondent Corporation) has filed this Writ Petition seeking a writ of certiorari to quash the qualification prescribed in Ext.P4 Government order dated 14.2.2011 for the post of Assistant Manager and Marketing Executive. The petitioner has also sought for a writ of mandamus commanding the respondents to include MBA/PG Diploma in Marketing and Management (Distance Education) from all recognised Universities/Institutions having the approval of the Distance Education Council and AICTE as a qualification for appointment to the post of Assistant Manager and Marketing Executive in the 2nd respondent Corporation. The petitioner has also sought for various consequential reliefs.

2. Going by the averments in the Writ Petition, the grievance of the petitioner is that, the recruitment for the post of Deputy Manager pursuant to Ext.P2 circular dated 24.7.2010 and that for the post of Marketing Manager, Assistant Manager and

Marketing Executives pursuant to Ext.P5 circular dated 16.2.2011 are being proceeded with by the 2nd respondent Corporation in terms of the qualifications prescribed in the Annexure to Ext.P4 Government order dated 14.2.2011, in such a manner to favour certain persons who are the employees of the 2nd respondent Corporation and that, if the selection is permitted to be proceeded with based on the qualification prescribed in the Annexure to the aforesaid G.O., it will result in denial of opportunity to her for participating in the selection process.

3. Today when the case was taken up for final hearing, it was pointed out by the learned counsel appearing for both sides that, by Ext.P16 Government Order dated 11.10.2014, the Government have approved the Recruitment (Qualification and Method of Appointment) Regulations of the 2nd respondent Corporation subject to certain modifications. A perusal of the aforesaid regulation annexed to Ext.P16 Government order will make it explicitly clear that, the said regulations come into force with effect from 22.6.2010 in supersession of all previous rules, practices and decisions, if any, on the subject insofar as they are inconsistent with the Rules of this policy. The Annexure to the said Regulation which prescribes qualification for various posts,

and that prescribed for the post of Marketing Manager, Deputy Manager (Marketing), Assistant Manager (Marketing) and Marketing Executive read thus:

Ia(1)	Marketing Manager	By promotion from Deputy Manager (Marketing)	Should be an approved probationer in the category of Deputy Manager Marketing
Ia(2)	Deputy Manager (Marketing)	By promotion from Assistant Manager (Marketing)	Should be an approved probationer in the category of Assistant Manager (Marketing)
Ia(3)	Assistant Manager (Marketing)	By promotion from Marketing Executive	Should be an approved probationer in the category of Marketing Executive.
Ia(4)	Marketing Executive	i) By Transfer from qualified employees in the service of the KTDC, who are approved probationers in the initial appointment ii) By Direct Recruitment through KPSC Note: Appointment By Transfer and Direct Recruitment shall be in the ratio 1:2.	For both the methods of appointment MBA with specialization in Marketing obtained from a recognized University/ Institution OR MBA in any discipline with Post Graduate Diploma in marketing obtained from te recognized University.

4. In view of the qualification prescribed in the revised Regulations, which came into force with effect from 22.6.2010, the grievance of the petitioner is redressed to a larger extent.

5. In such circumstances, I find it unnecessary to go into the merits of the rival contentions raised by the parties. Since the Regulation annexed to Ext.P16 came into force with effect

from 22.6.2010, any recruitment to the posts notified in Ext.P2 circular dated 24.7.2010 and Ext.P5 circular dated 16.2.2011 will have to be conducted strictly in terms of the qualifications and method of appointment, etc. contained in the Recruitment (Qualification and Method of Appointment) Rules of the Kerala Tourism Development Corporation Limited, 2014, which came into force with effect from 22.6.2010.

6. In such circumstances, this Writ Petition is disposed of making it clear that any recruitment to the posts notified in Ext.P2 circular dated 24.7.2010 and Ext.P5 circular dated 16.2.2011 will have to be conducted strictly in terms of the qualifications and method of appointment, etc. contained in the Recruitment (Qualification and Method of Appointment) Rules of the Kerala Tourism Development Corporation Limited, 2014, annexed to Ext.P16 which came into force with effect from 22.6.2010.

Sd/-

ANIL K.NARENDRA, JUDGE

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