

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).NO. 16605 OF 2013 (A)

PETITIONER(S):

- 1. GOPAKUMAR.D.S., GOPAMANDHIRAM,
CHERUPOIKA P.O., KOLLAM.**
- 2. RAMESH R.V., RAMANILAYAM,
KUREEMANNA, MUKHATHALA P.O.
KOLLAM.**
- 3. SAJEEV K., KADANCHIRA VEEDU,
ULLASNAGAR 102, KILIKOLLUR P.O.,
PUNTHALATHAZHAM, KOLLAM.**
- 4. DHANESHKUMAR N., DHANESH BHAVAN,
VENPALA P.O., THIRUVALLA, PATHANAMTHITTA.**
- 5. SAJITH KUMAR.G., SARASWATHY VILASOM,
KOLLARUKONAM, PERINGAMALA P.O.,
THIRUVANANTHAPURAM.**
- 6. RAJEEV R., CHIRAYIL PUTHEN VEEDU,
MUTHUKULAM SOUTH P.O., ALAPPUZHA.**
- 7. UNNIKRISHNAN PISHARADY.G.,
GOKULAM, RAMESWARAM, AMARAVILA P.O.,
NEYATTINKARA, THIRUVANANTHAPURAM.**
- 8. KRISHNAKUMAR S.S.,
KIZHIYAMVILA VEEDU, PULINKUDY,
MULLOOR P.O., THIRUVANANTHAPURAM.**
- 9. AJITH C.D., CHEMBUVELI HOUSE,
KAYIPPURAM, MUHAMMA P.O., ALAPPUZHA.**
- 10. VIKAS P.PANICKER, KOTHARATHIL HOUSE,
KOLLAMKULANGARA, AVALAKUNNU P.O., ALAPPUZHA.**
- 11. GOPAKUMAR G.NAIR, PADMAVILASAM,
ATHIRAMPUZHA P.O., KOTTAYAM.**
- 12. ASOK KUMAR P.PRASANNAN,
PATHINETTIL CHIRAYIL, VILLOONNI P.O.,
ARAPOOKARA, KOTTAYAM.**
- 13. JAYESH ANAND, SREEBHAVAN,
ARIKAVU P.O., KARTHIKAPALLY, ALAPPUZHA.**

14. SREERAJ V.K., SREEVIHAR,
KARICHAL, PAYIPPAD P.O., HARIPAD,
ALAPPUZHA.
15. PADMAKUMAR. R.,
VELIVILASAM, MANNOOR, KAKKANAM,
MARAYAMUTTOM, NEYYATTINKARA,
THIRUVANANTHAPURAM.
16. ABHILASH .S., ESWARA VILASAM,
VEERANAKAVU P.O., KATTAKKADA,
THIRUVANANTHAPURAM.
17. BIJU S.R., S.R. MANDIRAM,
MUNDELA P.O., VELLANAD,
THIRUVANANTHAPURAM.
18. SHIJULAL.K., LALBHAVAN, TC.24/1751,
THAIKAD P.O., THIRUVANANTHAPURAM.
19. SUBASH.S., PLAVILA PUTHEN VEEDU,
VELLETTIKONAM, CHOWALLOOR,
VILAPPILSALA P.O., THIRUVANANTHAPURAM.
20. UMARAJ. S.N., UDAYA HOUSE,
CHITTAZHA, VATTAPPARA P.O.,
THIRUVANANTHAPURAM.
21. GIREESH V., MANOGIRI HOUSE,
MULLUVILA, AZHAMKAL, KAIMANAM,
PAPPANKODU P.O., THIRUVANANTHAPURAM.
22. ANISH A.K., KIZHAKKEYIL,
MANIMALA P.O., KOTTAYAM.

BY ADV. SRI.D.SOMASUNDARAM.

RESPONDENT(S):

1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, NANTHANCOD, THIRUVANANTHAPURAM, PIN - 695 003.
2. DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, NANTHANCOD, THIRUVANANTHAPURAM, PIN - 695 003.

BY ADV. SRI.A.N.RAJAN BABU, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/03/2015, ALONG WITH WP.(C) NO.28621 OF 2013 AND WP.(C). NO. 3711 OF 2015, THE COURT ON 09/06/2015 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

- EXT.P1: TRUE COPY OF THE RANK LIST FOR THE POST OF WATCHER TEST CONDUCTED ON 26/02/2012 AND RE-TEST ON 25/03/2012.**
- EXT.P1(A): TRUE COPY OF THE RANK LIST FOR THE POST OF KAHAKOM-TEST CONDUCTED ON 26/02/2012 AND RE-TEST ON 25/03/2012.**
- EXT.P1(B): TRUE COPY OF THE RANK LIST FOR THE POST OF THALI-TEST CONDUCTED ON 26/02/2012 AND RE-TEST ON 25/03/2012.**
- EXT.P2: TRUE COPY OF THE INFORMATION ABOUT THE EXISTENCE OF VACANCIES FURNISHED FROM THE 2ND RESPONDENT UNDER RTI ACT NO.ROC.7426/13/PIO/MIS.A. DATED 04/06/2013.**
- EXT.P3: TRUE COPY OF THE PAPER REPORT PUBLISHED IN MATHRUBHOOMI DAILY DATED 23/12/2012.**
- EXT.P4: TRUE COPY OF THE ARTICLE PUBLISHED BY THE MATHRUBHOOMI THOZHIL VARTHA DATED 22/06/2013.**
- EXT.P5: TRUE COPY OF TE NEWS REPORTED IN JANAYUGAM DAILY DATED 19/12/2012.**
- EXT.P6: TRUE COPY OF THE JUDGMENT DATED 25/11/2009 IN WPC NO.21971/2009 OF THIS HONOURABLE COURT.**
- EXT.P7: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE RANK HOLDERS ASSOCIATION BEFORE THE DEVASWOM BOARD PRESIDENT DATED 26/03/2013.**
- EXT.P8: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE EMPLOYEES FRONT OF TRAVANCORE DEVASWOM BOARD TO THE PRESIDENT OF TRAVANCORE DEVASWOM BOARD DATED 19/03/2013.**
- EXT.P9: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE RANK HOLDERS BEFORE THE HON.MINISTER FOR DEVASWOM.**
- EXT.P10 TRUE COPY OF THE NOTIFICATION DATED 04/02/2011 PUBLISHED BY THE TRAVANCORE DEVASWOM BOARD.**
- EXT.P11 TRUE COPY OF THE PROCEEDINGS THE ANSWER GIVEN IN THE HOUSE BY THE MINISTER CONCERNED IN AFTER ASCERTAINING THE RELEVANT POSITION FROM THE BOARD.**
- EXT.P12 COPY OF THE PROCEEDINGS DATED 25/07/2013 ISSUED BY THE HON. CHAIRPERSON MR.JUSTICE J.B. KOSHY.**
- EXT.P13 COPY OF THE ANSWER GIVEN BY THE 2ND RESPONDENT DATED 02/07/2013 IN SUDHARYA KERALAM.**

- EXT.P14 COPY OF THE ARTICLE APPEARED IN MATHRUBHOOMI THOZHILVARTHA DATED 24/06/2013.
- EXT.P15 COPY OF THE PROCEEDINGS NO.ROC.87/12/ESTT.1 DATED 27/09/2012 ISSUED BY THE TRAVANCORE DEVASWOM BOARD.
- EXT.P16 COPY OF THE REPLY ROC NO.14467/14/PIO/MIS.A, B, C DATED 02/02/2015 ISSUED BY THE TRAVANCORE DEVASWOM BOARD.
- EXT.P17 COPY OF THE ORDER ROC.10350/13/PIO/MIS.C/MIS.B DATED 02/08/2013 ISSUED BY THE ASSISTANT DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD.
- EXT.P18 COPY OF THE CIRCULAR NO.ROC.8854/13/ESTT./MISC.A. DATED 20/02/2014 ISSUED BY THE COMMISSIONER, DEVASWOM BOARD.
- EXT.P19 COPY OF THE ORDER ROC. NO.16337/14/EST.2 DATED 10/02/2015 ISSUED BY THE SECRETARY, TRAVANCORE DEVASWOM BOARD DATED 10/02/2015.

RESPONDENTS' EXHIBITS:

- EXT.R1A COPY OF THE NOTIFICATION ROC NO.1000/2011 DATED 08/02/2011 INVITING APPLICATION SHOWING THE NAME OF POST, AND NUMBER OF EXISTING VACANCIES PUBLISHED IN MATHRUBHUMI DAILY DATED 09/02/2011.
- EXT.R1B COPY OF THE LETTER ROC NO.1044/05/MIS/EST.I DATED 11/07/2012 SENT BY THE SECRETARY, TRAVANCORE DEVASWOM BOARD TO THE DEVASWOM COMMISSIONER.

EXT.R1B IN AFFIDAVIT FILED BY 1ST RESPONDENT

- EXT.R1B COPY OF THE TABLE PROPOSAL FOR ADDITION AND DELETION OF POST IN VARIOUS GROUPS.
- EXT.R1C COPY OF THE RELEVANT PART OF REPORT OF KAZHAKAM FULL TIME.
- EXT.R1D COPY OF THE RELEVANT PART OF REPORT OF KAZHAKAM PART TIME.
- EXT.R1E COPY OF THE RELEVANT PART OF REPORT OF THALI FULL TIME.
- EXT.R1F COPY OF THE RELEVANT PART OF REPORT OF KAZHAKAM CUM THALI FULL TIME.
- EXT.R1G COPY OF THE RELEVANT PART OF REPORT OF THALI PART TIME.
- EXT.R1H COPY OF THE RELEVANT PART OF REPORT OF KAZHAKAM CUM THALI PART TIME.

- EXT.R1I TRUE AND RELEVANT PART OF REPORT OF WATCHER.
- EXT.R1J COPY OF THE RELEVANT PART OF REPORT OF WATCHER CUM KAZHAKAM.
- EXT.R1K COPY OF THE LETTER OF THE ASSISTANT DEVASWOM COMMISSIONER (ESTABLISHMENT) BY LETTER NO.ROC 17593/12EST DATED 07/06/2014.
- EXT.R1L COPY OF THE ROC NO.87/12/EST-1 DATED 15/10/2014.
- EXT.R1M COPY OF THE ORDER NO.ROC 87/12/EST-1 DATED 03/01/2005.
- EXT.R1N COPY OF THE ORDER NO.ROC-87/12-EST DATED 05/02/2015.
- EXT.R1O COPY OF THE TABULATION STATEMENT BY THE DEVASWOM COMMISSIONER ON DEPLOYMENT.
- ANNEXURE A COPY OF THE ORDER OF THE BOARD ORDER NO.ROC. NO.87/12/EST. DATED 15/10/2014.
- ANNEXURE B TO D: NIL.
- ANNEXURE E COPY OF THE RANK LIST OBTAINED BY THE PETITIONERS' RANK LIST IN VARIOUS CATEGORIES.
- ANNEXURE R1A COPY OF THE STATEMENT SHOWING THE DETAILS REGARDING THE NUMBER OF SANCTIONED POSTS, RE-DEPLOYMENT.
- ANNEXURE R1B COPY OF THE LIST SHOWING THE DETAILS OF POSTS TO BE ABOLISHED UNDER FULL TIME KAZHAKAM.
- ANNEXURE R1C COPY OF THE A STATEMENT SHOWING THE DETAILS OF PART TIME KAZHAKAM.
- ANNEXURE R1D COPY OF THE DETAILS OF PROPOSED RE-DEPLOYMENT AND PROPOSAL REDUCTION OF POSTS IN FULL TIME THALI POST.
- ANNEXURE R1E COPY OF THE PROPOSAL PLACES FROM REDUCTION HAS TO BE MADE UNDER THE POST OF PART TIME KAZHAKAM CUM THALI.

//TRUE COPY//

P.S. TO JUDGE

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).Nos.16605/2013, 28621/2013 & 3711/2015**  
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Dated this the 9th Day of June, 2015

J U D G M E N T

The short question in these writ petitions is with regard to the notification issued by the Travancore Devaswom Board inviting applications for various posts under the Board. The point for consideration is whether the appointments from the list are only to be made in respect of the vacancies referred in the notification or for all the vacancies to be arisen during the currency of the list.

2. The writ petitioners are applicants who are included in the rank list prepared for appointment as temple employees such as *Watcher, Kazhakom, Thali* etc. They allege that in spite of large number of vacancies in the notified posts, the Board is withholding

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appointments to the candidates who are included in the list. It is further submitted that the Board is engaging temporary hands to discharge the duties of the temple employees on daily wages. They rely on the information obtained from the Public Information Officer under the Right to Information Act regarding current vacancies (See Ext.P16 produced in W.P.(C) No.16605/2013).

3. There were various orders passed by this Court directing the Board to furnish the details of the vacancies. The stand of the Board at the relevant point of time was that the identification of vacancies could be possible only on completion of redeployment. Thereafter, a statement was filed on 05/03/2015 showing the sanctioned posts, redeployment to be made and excess post to which redeployment is to be made.

4. The essential dispute now urged before this Court is with regard to non-fulfilment of the posts which are admittedly available for appointment. The

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list was published on 09/07/2012. The validity of the rank list is three years from the above date.

5. The learned Standing Counsel Shri A.N.Rajan Babu appearing for the Board would submit that the Board is not bound to appoint any of the candidates over and above the notified vacancies. It is further submitted that the Board would appoint all selected candidates and who are included in the rank list for the unfilled notified vacancies. However, it is admitted that as against the notified vacancies of 54 Watchers, they have appointed 94 candidates and if the Court directs, they are prepared to undo the appointments made in excess of the notified vacancies.

6. The learned counsel Shri D.Somasundaram and other counsel for the petitioners submit that in the notification, the reference is only made to the number of vacancies which were available for appointment at the time of notification. Since validity of the list is for three years, reference to any vacancies in the

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notification have no relevance. It is submitted that all the vacancies which arise during the validity of the rank list will have to be filled in accordance with the ranking of the candidates in the list.

7. Per contra, the learned Standing Counsel for the Board Shri A.N.Rajan Babu submits that the Hon'ble Supreme Court and this Court have deprecated appointment of candidates in excess of the notified vacancies.

8. In the backdrop of the fact of submissions, this Court has to consider the purport of the notification. The notification only refers to the fact of present available vacancies. Nowhere it indicates that notified vacancies are exhaustive vacancies and the selection is only for definite number of vacancies notified. The reference to the present vacancies in the notification coupled with the fact that the list has validity for three years from 09/07/2012 clearly indicates that the intention was to fill all the

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vacancies that would arise during the currency of the list. If the list has no life span, there is no necessity to fix life span of three years. As rightly pointed out by the learned Standing Counsel Shri A.N.Rajan Babu, no appointments can be made in excess of the notified vacancies, if notified vacancies are determined in advance. However, in this case, the invitation for applications was not on pre-quantified vacancies but for all the vacancies to be arisen during the currency of the list.

9. The advertisement inviting applications for selection, is equally binding upon the organisation inviting applications as well as the applicants. The fact as has been noted is that the advertisement was not for specified number of vacancies but for all the vacancies during the validity of the list including available vacancies which were notified at the time of issuance of notification.

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10. Thus, these writ petitions are disposed directing the Board to appoint all the candidates before expiry of the list in the substantive vacancies that have arisen during the currency of the list. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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