

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WP(C).No. 18557 of 2015 (T)

PETITIONER(S):

ABITHA KARUN AGED 36 YEARS
ASARIPARAMBIL HOUSE, KOLANI P.O., THODUPUZHA
IDUKKI DISTRICT.

BY ADV. SRI.BABU CHERUKARA

RESPONDENTS:-

1. DIRECTOR, CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION
CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION
1ST FLOOR, CO-OPERATIVE BANK TOWERS, VIKAS BHAVAN P.O.
THIRUVANANTHAPURAM, PIN - 695 033.
2. THE COLLEGE OF NURSING AT COCHIN MEDICAL COLLEGE
REPRESENTED BY IT' MEDICAL DIRECTOR
H.M.T. COLONY P.O., KALAMASSERY, PIN - 683 503.
3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVT.
DEPARTMENT OF HEALTH & FAMILY WELFARE, SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695 001.

R1 BY ADV. SRI.V.KRISHNA MENON, SC, CAPE
R1-R3 BY ADV. GOVERNMENT PLEADER SMT A LOWSY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18557 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE RANK LIST DATED 03.03.2011
NO.991/G/2011/CAPE/842 OF CO-OPERATIVE ACADEMY OF PROFESSIONAL
EDUCATION.

EXHIBIT P2. TRUE COPY OF THE COMMON JUDGMENT IN W.P.(C)NO.15775/2012
DATED 26.05.2012 OF THE HON'BLE HIGH COURT OF KERALA.

EXHIBIT P3. TRUE COPY OF REPRESENTATION DATED 02.08.2012 BY THE
SECRETARY RANK HOLDERS ASSOCIATION TO THE HON'BLE MINISTER FOR CO-
OPERATIVE DEPARTMENT.

EXHIBIT P4. TRUE COPY OF THE MINUTES OF INTERVIEW FOR SELECCTION OF
CANDIDATES FOR APPOINTMENT AS LECTURER.

EXHIBIT P5. TRUE COPY OF THE REPLY FROM THE DIRECTOR MEDICAL
EDUCATION DEPARTMENT DATED 11.05.2015 TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No.18557 of 2015

Dated this the 02nd day of September, 2015

J U D G M E N T

The petitioner who was awarded 11th rank in Ext.P1 rank list has not been given appointment in the 2nd respondent College of Nursing., which is a college under the 1st respondent. Admittedly, the Co-operative Academy of Professional Education (CAPE) was an institution under the private sector which has been subsequently taken over by the Government as per G.O(MS) NO.120/2014/H&FWD dated 22.04.2014. The petitioner contends that the issue is covered by Ext.P2 judgment. The petitioner also seeks that the petitioner be appointed to the post in accordance with the rank list prepared at Ext.P1.

2. A reading of Ext.P2 would indicate that two of the petitioners therein, where the 7th and 8th rank holders in Ext.P1 list and the writ petition, itself were filed in the year 2012 and the

same was disposed of on 26.05.2015. Therein this Court considered the aspect of vacant posts, affecting the recognition itself granted by the Medical Council of India and hence directed that rank numbers 7 and 8 be considered for the appointment on the basis of their position in their rank list.

3. The Government herein has filed a counter affidavit in the present case wherein the faculty position has been clearly indicated. The CAPE, the private institution had appointed Serial Nos. 1 and 2. Two persons who were in the list were already working in CAPE as instructors whose posts were re designated as lecturers. The specific contention of the State is that there are no more vacancies in the cadre of lecturers to be filled up. In such circumstance, definitely there could be no direction issued to appoint the petitioner. It is to be noticed that the petitioners in Ext.P2 had approached this Court immediately after the rank list was published, within a reasonable time, though there is no

validity period prescribed for the said list. The petitioner herein has approached this Court after four years from the publication of the rank list.

In such circumstance, this court does not find any reason to grant the reliefs prayed for by the petitioner. Writ petition would stand dismissed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge

WPC.18557/2015

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