

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 29798 of 2005 (V)

PETITIONER(S):

- 1. C.V.VALSAN, EMPLOYMENT OFFICER
(PLACEMENT), DISTRICT EMPLOYMENT EXCHANGE, KANNUR.**
- 2. E.J.ALEYAMMA, EMPLOYMENT OFFICER
(SELF EMPLOYMENT), DISTRICT EMPLOYMENT, EXCHANGE
PALAKKAD.**
- 3. E.A.SARASU, EMPLOYMENT OFFICER,
TOWN EMPLOYMENT EXCHANGE, PEERMADE, IDUKKI.**

**BY ADVS.SRI.N.SUGATHAN
SMT.VARSHA BHASKAR**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED
BY THE SECRETARY TO GOVERNMENT
LABOUR & REHABILITATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF EMPLOYMENT,
DIRECTORATE OF EMPLOYMENT, THYCAUD
THIRUVANANTHAPURAM.**

R,R1 & 2 BY ADV. GOVERNMENT PLEADER SRI. S. JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 29798 of 2005 (V)

APPENDIX

PETITIONERS EXHIBITS:

- | | |
|----------------|---|
| EXT.P1 | COPY OF THE ORDER NO.J1/26017/02/DE DTD.9.10.02 OF THE 2ND RESPONDENT. |
| EXT.P2 | COPY OF ORDER NO.J2/2760/05/02/DE DTD. 1.8.05 OF THE 2ND RESPONDENT. |
| EXT.P3 | COPY OF NOTIFICATION NO.J5/31168/02/DE DTD.14.10.03 OF THE DPC (LOWER) |
| EXT.P4 | COPY OF ORDER NO.J1/5077/04/DE DTD.4.2.05 OF THE 2ND RESPONDENT. |
| EXT.P5 | COPY OF ORDER NO.J1/38/04/DE DTD.31.1.04 OF THE 2ND RESPONDENT |
| EXT.P6 | COPY OF NOTICE NO.J1/21127/04/DE DTD.2.9.05 OF THE 2ND RESPONDENT TO 1ST PETITIONER. |
| EXT.P7 | COPY OF NOTICE NO.J1/21127/04/DE DTD.2.9.05 OF THE 2ND RESPONDENT TO THE 2ND PETITIONER. |
| EXT.P8 | COPY OF THE NOTICE NO.J1/21127/04/DE DTD.2.9.05 OF THE 2ND RESPONDENT TO THE 3RD PETITIONER. |
| EXT.P9 | COPY OF EXPLANATION DTD.3.10.05 OF THE 1ST PETITIONER. |
| EXT.P10 | COPY OF EXPLANATION DTD.3.10.05 OF THE 2ND PETITIONER. |
| EXT.P11 | COPY OF EXPLANATION DTD. NIL OF THE 3RD PETITIONER. |
| EXT.P12 | COPY OF THE LETTER NO.11031/G1/03/LBR DTD.7.4.04 OF THE 1ST RESPONDENT. |
| EXT.P13 | COPY OF G.O(P) NO. 2/2005/P&ARD DTD.31.1.05. |

RESPONDENTS EXHIBITS:

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.29798 of 2005 - V

=====

Dated this the 5th day of October, 2015

J U D G M E N T

The petitioners were all given exemption from qualification for promotion to the post of Employment Officer. The petitioners were aggrieved by Ext.P12 communication, which specified that exemption is available only to those qualifications mentioned as 'obligatory departmental tests' and there can be no exemption to the specialist qualifications prescribed in the special rules.

2. The issue is covered by a Division Bench decision of this Court reported in **Somarajan v. State of Kerala [2007(1) KLT 186]**, wherein this Court has found that the provisions of 13AA and 13 AB of the Kerala State and Subordinate Service Rules, 1958 is also applicable to special tests prescribed as an essential requirement. In any event, it is also brought to the

notice of this Court that all the petitioners have retired. They were continued on the basis of the interim order of this Court in the promotion post. In such circumstance, there is absolutely no requirement for a fresh consideration of the issues.

The writ petition would stand allowed respectfully following the aforesaid Division Bench decision, making it clear that the promotion of the petitioners, who have already retired cannot at all be interfered with.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/06 /10 /2015

// true copy //

P.A to Judge.