

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE SMT. JUSTICE P.V.ASHA**

**FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937**

**WP(C).No. 32134 of 2013 (N)**  
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**PETITIONER(S):**  
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1. AHADS WORKERS WELFARE ASSOCIATION (INTUC) AGED 38 YEARS  
AHADS, AGALI PO, AGALI  
PALAKKAD 678 581  
REPRESENTED BY ITS PRESIDENT SHIBU CYRIAC  
S/O.KURIAN, PARAYIL, THAVALAM PO  
AGALI, PALAKKAD
2. SALJU.K.S  
KAIPPANAL HOUSE, KALLAMALA PO, AGALI  
PALAKKAD
3. BIJUMON GOPI  
S/O.GOPINATHAN NAIR, CHERUSSERIL HOUSE, KALLAMALA PO  
PALAKKAD 678 582.
4. SUBI EMMANUEL  
S/O.EMMANUEL, MUNDACKATHARAKKEL HOUSE, KARARA PO  
MUNDANPARA, PALAKKAD 678 581.
5. RESEENA.R  
D/O.RAZAK, KALLATHANI HOUSE, AGALI PO  
PALAKKAD 678 581
6. GOPAKUMAR.P.G  
S/O.GOPALAN NAIR, PUTHUPARAMBIL HOUSE, KALLAMALA PO  
PALAKKAD 678 582.
7. JANET K.AUGUSTINE  
S/O.AUGUSTINE, KIZHAKKEYIL HOUSE, CHITTOOR PO  
AGALI, PALAKKADE 678 581.
8. KAVITHA.K  
D/O.KRISHNA MOORTHY, KRISHNA NIVAS, GOOLIKKADAVU  
AGALI PO, PALAKKAD 678 581.
9. ASMABEEVI.A  
D/O.ABDUL KHADER, MATTAKATH HOUSE, KOTTATHARA PO  
AGALI 678 581
10. SAJEESH CHACKO  
THADATHIL HOUSE, CHITTOOR PO, AGALI  
ATTAPPADI

**WP(C).No. 32134 of 2013**

**BY ADVS.SRI.A.JAYASANKAR  
SRI.SUNDARAM GOVIND  
SRI.MANU GOVIND  
SRI.JOPHY POTHEN KANDANKARY**

**RESPONDENT(S):**  
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- 1. THE STATE OF KERALA  
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT  
THIRUVANANTHAPURAM 695 001**
- 2. THE DEPARTMENT OF LOCAL SELF GOVERNMENT  
REPRESENTED BY SECRETARY TO GOVERNMENT, SECRETARIAT  
THIRUVANANTHAPURAM 695 001.**
- 3. THE FOREST AND WILDLIFE(F) DEPARTMENT  
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT  
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**

**BY GOVERNMENT PLEADER SRI. REFEEQ V.K.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-06-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



P.V.ASHA, J.

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W.P.(C). No.32134 OF 2013

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Dated this the 5<sup>th</sup> day of June, 2015

### JUDGMENT

The association of former workers of AHADS (Attappady Hills Area Development Society) along with certain individual former workers seek a declaration that the association as well as its members are entitled for an equal treatment at the hands of Government in the matter of employment.

2. On account of the demands raised by the erstwhile staff of AHADS, Government took a policy decision in 2012, to appoint 91 erstwhile staff belonging to Scheduled Tribes of AHADS in Forest Department as Forest Watchers against the 120 posts allotted to Palakkad District.

3. The petitioners are seeking employment as Watchers or in any last grade post, as in the case of the 91 ex-employees of AHADS belonging to Scheduled Tribe

community, who are ordered to be absorbed in the Forest and Wild Life Department as per Ext.P1 order issued on 15.5.2013. By Ext.P1, Government created 700 posts of Tribal Watchers and decided to make appointment to those posts by special recruitment of 700 Tribal Watchers. This decision was taken on the basis of a report from the Chief Conservator of Forests to the effect that the daily waged Tribal Watchers who were working for more than 15 years in the department as Mazdoor Watchers, Protection Watchers and Night Watchers etc. can be utilised along with Foresters and Forest Guards to man the protection camp in interiors of forests for tackling the problems of ganja cultivation, wildlife, poaching, sandal wood smuggling and collection of intelligence regarding terrorist and anti-national activities in interiors of forest. It was requested to create 700 posts of Tribal Watchers and to fill up the posts through special recruitment from Forest dwelling scheduled Tribes inhabiting in the Forest for improving their standard of life. On examination of the proposal placed by the Chief Conservator of Forest, Government created 700 posts of

Tribal Watchers in the Forest Department, so that 700 Tribals are recruited through special recruitment, on conditions to be stipulated. Out of this, 120 posts were earmarked for Palakkad District. While prescribing the qualification under Ext.P1, one of the stipulations was that 91 Scheduled Tribe employees who became unemployed due to the winding up of AHADS shall be given employment under the Scheme, as per the stipulations contained in the G.O.(Ms) 216/2012/LSGD dated 8.8.2012.

4. On the basis of the aforesaid Government Order issued on 15.5.2013, Government issued Ext.P2 order on 3.6.2013 granting permission to appoint 91 ex-employees of AHADS, mentioned in the list annexed to it, in the newly created post of Tribal Watchers in the vacancies earmarked for Palakkad District, in relaxation of the provisions of Ext.P1 Government Order.

5. According to the petitioners they are also entitled to be absorbed as Watchers along with those 91 ex-employees absorbed as Tribal Watchers and denial of consideration despite the request, as per Ext.P3 mass

complaint will amount to arbitrariness and discrimination in violation of Articles 14 and 16 of the Constitution of India.

6. The petitioners urge that absorption of the 91 ex-employees belonging to Scheduled Tribe will exceed the 50% quota for reservation, which is not permissible. In support of this contentions, the learned counsel relied on para 51 to 54 of the judgment reported in *State of Gujarat and Another v Ambica Mills Ltd. Ahmedabad* in [AIR 1974 SC 1300].

7. I heard the learned Counsel appearing for the petitioners as well as the learned Government Pleader for the respondents.

8. It is seen that petitioners have not challenged the orders Ext.P1 or Ext.P2, while alleging excessive reservation in the matter of absorption, covered by those orders. Apart from the allegation that there is violation of Article 14 in Ext.P1 and P2 orders, petitioners have also not chosen to challenge the orders or to implead the 91 ex employees who have been absorbed. Government have explained that their absorption as per Ext.P2 is on the basis of a policy decision

taken to protect the interest of Scheduled Tribe Community and that all the 91 persons absorbed belong to Scheduled Tribe community and are well versed with the forest terrain. Moreover, after considering the representation submitted by the petitioners, Government accorded sanction to the Project Director of AHADS, to retain 12 employees of AHADS as core staff in the essential categories of various wings, as per G.O.(Ms) No.181/2012/LSGD dated 30.6.2012.

9. The petitioners who do not belong to Scheduled Caste community cannot legally seek equal treatment in the matter of appointment in Forest Department under the Scheme for special recruitment. The petitioners have not substantiated any of their rights if any, to get absorbed in the Forest department along with the 91 ex-employees, as part of the process of special recruitment. Therefore there is no basis for their allegation that there is discrimination, or in their claim that they are also entitled to equal consideration along with those belonging to Scheduled Tribes. The judgment relied on by the learned Counsel for the petitioner, will not apply in the factual circumstances

arising in this case.

Therefore this writ petition fails and hence, it is dismissed.

SKV

Sd/-  
P.V.ASHA, JUDGE