IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

WEDNESDAY, THE 24TH DAY OF JULY 2024 / 2ND SRAVANA, 1946

WP(C) NO. 25978 OF 2023

PETITIONER:

SIBI JOSE
AGED 50 YEARS
S/O.JOSE, MANNARUKUNNEL HOUSE, THIRUVAMBADY.P.O.,
KOZHIKODE,, PIN - 673 603.

BY ADVS.
B.PREMNATH (E)
SARATH M.S.

RESPONDENTS:

1 GOVERNMENT OF INDIA,
MINISTRY OF WOMEN AND CHILD DEVELOPMENT, SHASTRI BHAVAN,
NEW DELHI REPRESENTED BY ITS JOINT SECRETARY, PIN - 110 001.

2 GOVERNMENT OF KERALA
MINISTRY OF WOMEN AND CHILD DEVELOPMENT, SECRETARIAT,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY,
PIN - 695 001.

3 DIRECTOR,
DIRECTORATE OF WOMEN & CHILD DEVELOPMENT, POOJAPPURA,
THIRUVANANTHAPURAM,, PIN - 695 012.

4 KERALA STATE CHILD PROTECTION SOCIETY
(INTEGRATED CHILD PROTECTION SCHEME), OPPOSITE PRISON HEAD
QUARTERS, POOJAPPURA P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS CHAIRPERSON, PIN - 695 015.

5 SELECTION COMMITTEE FOR APPOINTMENT OF CASE WORKERS
("VATSALYA SCHEME")
REPRESENTED BY THE HEAD OF SELECTION COMMITTEE, THE
DISTRICT MAGISTRATE, CIVIL STATION, ERANHIPPALAM,
KOZHIKKODE, (DISTRICT COLLECTOR, KOZHIKKODE), PIN - 673 020.

6 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, B-BLOCK, 2ND FLOOR, CIVIL STATION, KOZHIKODE, PIN - 673 020.

7 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, JAWAHAR BALA VIKAS BHAVAN, MEENANGADI.P.O. WAYANAD,, PIN - 673 591.

8 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, MUNICIPAL COMPLEX, ROBINSON ROAD, PALAKKAD,, PIN - 678 001.

9 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, CIVIL STATION, 2ND FLOOR, VIDYA NAGAR, KASARAGOD,, PIN - 671 123.

10 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, 3RD FLOOR, MINI CIVIL STATION, MANJERI, MALAPPURAM,, PIN - 676 121.

11 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, T.C.42/1800, OPP. L.H.O, SBI, POOJAPPURA, THIRUVANANTHAPURAM, PIN - 695 012.

12 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, 3RD FLOOR, MINI CIVIL STATION, AARANMULA, PATHANAMTHITTA,, PIN - 689 533.

13 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, 3RD FLOOR, CIVIL STATION, KOLLAM,, PIN - 691 013.

14 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, PAINAVU.P.O., PAINAVU, IDUKKI,, PIN - 685 603.

15 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, KVM BUILDINGS, ANNANKUNNU ROAD, KOTTAYAM,, PIN - 686 001.

16 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, LATHEEN PALLI BUILDING COMPLEX, CONVENT SQUARE, ALAPPUZHA, PIN - 688 001.

17 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, GROUND FLOOR, A-3 BLOCK, CIVIL STATION, KAKKANAD, ERNAKULAM,, PIN - 682 030.

18 DISTRICT CHILD PROTECTION OFFICER
DISTRICT CHILD PROTECTION UNIT, MUNICIPAL TOWN HALL SHOPPING COMPLEX, ROOM NO.S6, KANNUR, PIN - 670 104.

19 ADDL.R19 RASIN RAJ V.,
AGED 26, S/O RAJAN, VAZHAYIL HOUSE, PULIYAVU P.O, PARAKKADAVU VIA, KOZHIKODE DISTRICT, PIN - 673 509 [ADDL.R19 IS IMPLEADED AS PER ORDER DATED 11.04.2024 IN I.A-3/2024 IN WP(C) 25978/2023]

BY ADVS.
N.AJITH
MARY BEENA JOSEPH, SENIOR GOVERNMENT PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The Government of India, the 1st respondent, has introduced a centrally sponsored scheme known as "Mission Vatsalya" for the welfare and rehabilitation of children in difficult circumstances. The 1st respondent on behalf of the President of India and the Government of Kerala, the 2nd respondent, on behalf of the Governor of Kerala, have entered into a Memorandum of Understanding on 18.12.2009 for implementation of the scheme in the State of Kerala. The 4th respondent, the Kerala State Child Protection Society established under the Juvenile Justice (Care & Protection of Children) Act, 2015, is entrusted with the implementation including mapping and planning of "Mission Vatsalya" Scheme. The Standard Operating Procedure conveyed by the 1st

respondent to the 2nd respondent details the human resource needed in the control room Child Help Line Unit at the District Protection Unit, and at the Child Help Desk at railway station and bus stand. The human resource required includes project coordinators, counsellors, Child Help Line supervisors and case workers. Ext.P9 which forms part of the Standard Operating Procedure provides for the indicative qualifications for the staff required in the control room Child Help Line Unit at the District Protection Unit, and at the Child Help Desk at railway station and bus stand.

2. As part of the Mission Vatsalya project, the Directorate of Women and Child Development, the 3rd respondent, issued Ext.P10 notification dated 01.07.2023 calling for applications from suitable candidates for

various positions on contract basis in the Child Help Line State Control Room at Thiruvananthapuram. In Ext.P10 notification, the maximum age prescribed for candidates as on the date of notification was 40 years. However, the prescription of age as 40 years as per Ext.P10 was later amended by increasing the age limit to 50 years by Ext.P11 notification dated 04.07.2023.

3. The Directorate of Women and Child Development issued Ext.P12 circular to all District Child Protection Officers in the State, instructing them to take steps to appoint suitable candidates to the Child Help Line District Level Control Room through the District Level Selection Committee, in accordance with the Standard Operating Procedure issued by the 1st respondent. It is stipulated that the notification for

various posts should be issued urgently and the selection process should be completed by 25th July, 2023. Ext.P12 circular indicates that the notification shall provide that the candidates with previous experience working in a Child Helpline will be preferred, the appointment will be on a one-year contract basis, and the appointees will be required to do night duty on a shift basis. It further states that the District Level Selection Committee will have full authority over the selection process, and the final rank list shall be submitted to the State Office for approval.

4. Pursuant to Ext.P12 circular, the District Child Protection Officers of various districts issued notifications for appointment to the posts of Project Coordinator, Counsellor, Child Help Line Supervisor, and Case Worker

in their respective districts. The petitioner has produced those notifications as Exts.P13 to P25. Ext.P13 is the notification issued by the District Child Protection Officer, Kozhikode, the 6th respondent, for appointment to the posts of Project Coordinator, Counsellor, Child Help Line Supervisor, and Case Worker on contract basis at the Child Help Line District Level Control Room and at the Railway Child Help Line. The qualification prescribed for the post of Case Worker is passing 12th from a recognized Board or an Equivalent Board with good communication skills. Weightage will be given to experienced candidates and prescribes preference for personnel working in emergency helplines. Ext.P13 provides that the maximum age limit for appointment to the notified posts is 50 years as on the date of

notification.

5. Pursuant to Ext.P13 notification, the petitioner applied for the post of Case Worker in the Child Help Line Centre, Kozhikode. The petitioner states that he is qualified for appointment to the post of Case Worker and has more than 11 years experience as Case Worker, including the experience of working in emergency help lines and he claims for weightage and preference for appointment as Case Worker. However, by Ext.P26 communication through e-mail, the petitioner was informed by the 6th respondent that they will not be moving forward with his application. However, no reason therefor was stated in Ext.P26. The petitioner submitted Exts.P27, P28 and P29 representations respectively before the 3rd respondent, the Hon'ble Health Minister and the

Hon'ble the Chief Minister. Later, the petitioner received a phone call from the office of the 3rd respondent to attend the interview for the post of Case Worker. The petitioner states that he attended the interview and though the 5th respondent selection committee was satisfied with his qualification, experience and performance, they informed him that they are unable to consider his application because of the stipulation in Ext.P13 notification that the applicant should not exceed 50 years of age as on the date of the said notification.

6. The petitioner submits that in Ext.P14 notification issued by the 7th respondent, the District Child Protection Officer, Wayanad, for the posts of Project Coordinator, Counsellor, Child Help Line Supervisor, and Case Worker in Wayanad district, it is stipulated that the applicants

should not have completed 50 years as on 01.01.2023. Furthermore, in Exts.P15 and P16 notifications respectively issued by the District Child Protection Officers of Palakkad and Kasaragod districts, although the maximum age is prescribed as 50, there is no stipulation that this age limit shall be 'as on date of notification'. In Exts.P17 to P25 notifications issued by the District Child Protection Officers of other districts for the posts of Project Coordinator, Counsellor, Child Help Line Supervisor, and Case Worker in their respective districts, the maximum age limit is prescribed as 50 years as on the date of notification.

7. The date of birth of the petitioner is 26.05.1973. As per the maximum age limit notified in Ext. P13 in respect of Kozhikode district, that is, 50

years as on the date of notification, the date of notification being 05.07.2023, the petitioner is ineligible to apply for the post of Case Worker as he crossed the maximum age limit of 50 years on 26.05.2023. However, so far as Wayanad district is concerned, the maximum age limit specified is 50 years as on 01.01.2023. The petitioner states that, had the same upper age limit been prescribed in Kozhikode district, the petitioner would not have become ineligible to apply for the post of Case Worker. The petitioner submits that the different classification of the applicants of Kozhikode, Wayanad, Palakkad and Kasaragod districts is not based on any intelligible differentia and is arbitrary and violative of Article 14 of the Constitution of India. The petitioner has accordingly filed this writ petition challenging Ext.P26

whereby his application for the post of Case Worker was refused to be considered and for quashing Ext.P30 rank list for the post of Case Worker in Kozhikode District and to declare that the prescription of age limit of 50 years as on the date of Ext. P13 notification for the post of Case Worker is illegal and arbitrary.

8. This Court, while admitting the writ petition on 07.08.2023, had passed an interim order not to fill up one post of Case Worker in Child Helpline in Kozhikode district till the next posting date and the same is extended from time to time.

9. An additional affidavit has been filed by the petitioner stating that five persons from Ext. P30 rank list have already been appointed to the post of Case Worker and it is understood that others including the

additional 19th respondent are not interested to join and therefore, he is entitled to be appointed against the 6th post which is kept vacant as per the direction of this Court.

10. No counter affidavit has been placed on record on behalf of the respondents. The matter is posted today on being mentioned by Sri. B.Premnath, the learned counsel for the petitioner since the one year period for which the applications were called for is about to expire.

11. Heard Sri. B.Premnath, the learned counsel for the petitioner and Smt. Mary Beena Joseph, the learned Senior Government Pleader.

12. Sri. Premnath submits that while an applicant to the post of Case Worker in response to Ext.P14 notification can get appointed regardless of his/her age

being 50 years as on the date of notification, the non-consideration of the application of the petitioner for the post of Case Worker pursuant to Ext.P13 on the ground that he has crossed the maximum age limit of 50 years as on the date of notification is illegal and violative of Articles 14, 16 and 21 of the Constitution of India. It is contended that while all the persons who apply for the post of Case Worker belong to one class under the same scheme with the same nature of job, prescription of different yardstick in Ext.P13 notification *vis a vis* Exts.P14 to P16 notifications amounts to class legislation and is discriminatory. Sri. Premnath contends that prescription of different upper age limit for appointment to a post amounts to violation of equal opportunity for employment guaranteed under Article 16 of the

Constitution and Ext.P13 notification does not amount to due process of law and is therefore violative of Article 21 of the Constitution. It is submitted that though the period of appointment is for a period of one year, the same is liable to be extended further and the petitioner may be directed to be appointed against the 6th post of Case Worker in Kozhikode district which has been kept vacant by orders of this Court.

13. Smt. Mary, the learned Government Pleader, on instructions, submits that the selection to the posts in District Level Child Help Line is being done by the District Selection Committee chaired by the District Collector with the support from the District Child Protection Unit. She submits that all District Units have to adhere to Ext.P12 standardized procedure and

additionally the State Office has disseminated notification for the reference of the District Units and it has been mentioned therein that the age is to be determined as per the date of the notification. So far as the Kozhikode District is concerned, Ext.P13 notification specifically provides that the maximum age for submitting application is 50 years as on the date of notification. Smt. Mary contends that, in Exts.P15 and P16 notifications so far as the districts of Palakkad and Kasaragod are concerned, though the maximum age limit for preferring the application has not been specifically mentioned, the age is to be determined as on the date of notification.

14. In Exts.P13 and P17 to P25 notifications issued for appointment to the posts of Project Coordinator,

Counsellor, Child Help Line Supervisor, and Case Worker at the Child Help Line District Level Control Rooms, it is provided that the maximum age of the candidate as on the date of notification shall be 50 years. In Ext.P14 notification issued in respect of Wayanad district, the maximum age limit specified is 50 years as on 01.01.2023, *ie*; the first day of January of the year in which the notice inviting applications is published. In Exts.P15 and P16 notifications issued in respect of Palakkad and Kasaragod districts, the maximum age limit for preferring the application has not been specifically mentioned. The petitioner has crossed the maximum age limit of 50 years as on the dates of Exts.P13 to P25 notifications. However, if the cut-off date regarding the maximum age, as in the case of

Ext.P14 notification issued for Wayanad district is taken, the petitioner would not have crossed 50 years as on 01.01.2023. The Standard Operating Procedure produced by the petitioner does not indicate the cut-off date for determining the maximum age prescribed for the post of Case Worker. Since no such cut-off date is fixed in the Standard Operating Procedure, the date appointed for the purpose in the notifications inviting the applications shall apply. Since no date is fixed in Exts.P15 and P16 notifications issued in respect of Palakkad and Kasaragod districts, the cut-off date shall ordinarily be the last date for receipt of the applications. The petitioner was an applicant for the post of Case Worker in Kozhikode district. Ext.P13 notification issued in respect of Kozhikode district specifically provides that the maximum

age limit shall be 50 years as on the date of notification. As on the date of Ext.P13 notification, the petitioner has crossed the maximum age limit. It is submitted by the learned Government Pleader that instructions had been given to District Child Protection Units by the 3rd respondent explicitly mentioning that the age is to be determined as per the date of the notification. This is not seen followed by the Wayanad District Child Protection Unit. That cannot be a reason to interfere with Ext. P30 rank list published in respect of Kozhikode district.

15. The appointment to the posts of Project Coordinator, Counsellor, Child Help Line Supervisor, and Case Worker is done as per the Standard Operating Procedure issued by the Central Government and the

qualifications and eligibility criteria shall be the same in all districts in the State. If different cut-off dates are prescribed for determining the maximum age in different districts, it would definitely go against the doctrine of equality before law and would be inconsistent with the equality of opportunity in matters relating to employment or appointment as guaranteed under Article 16(1) of the Constitution. The specific instruction of the 3rd respondent to the District Child Protection Units was that the age is to be determined as per the date of the notification. In spite of that, the Wayanad District Child Protection Unit followed a different cut-off date for determining the maximum age. That by itself is no ground to interfere with the selection process to the post of Case Worker in Kozhikode district in which the

petitioner participated. True, the petitioner, despite having many credentials, has narrowly missed his chance. The petitioner has crossed the maximum age limit prescribed in Ext.P13 notification and he cannot, therefore, be considered for the post of Case Worker in Kozhikode District.

The writ petition fails and is, accordingly, dismissed.

Sd/-

MURALI PURUSHOTHAMAN

JUDGE

SRJ

APPENDIX OF WP(C) 25978/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE EXPERIENCE CERTIFICATE NO.TSSS/EX.CLK/22/2023 ISSUED TO THE PETITIONER BY THE THALASSERY SOCIAL SERVICE SOCIETY, DATED 15.07.2023.
Exhibit P2	TRUE COPY OF THE EXPERIENCE CERTIFICATE NO.AWH 30-1/CL-CLTK ISSUED TO THE PETITIONER BY THE ASSOCIATION FOR WELFARE OF HANDICAPPED, DATED 16.12.2022.
Exhibit P3	TRUE COPY OF THE RELEVANT EXTRACT OF HIS S.S.L.C. BOOK OF PETITIONER, ISSUED BY THE HEADMASTER OF ST.GEORGE'S HIGH SCHOOL, VILANGAD.
Exhibit P4	TRUE COPY OF THE PRE-DEGREE MARK LIST OF PETITIONER ISSUED BY THE CONTROLLER OF EXAMINATIONS, UNIVERSITY OF CALICUT TO THE PETITIONER, DATED 25.06.1996.
Exhibit P5	TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE PRESIDENT OF INDIA AND THE GOVERNOR OF THE STATE OF KERALA FOR THE IMPLEMENTATION OF THE CENTRALLY SPONSORED SCHEME "INTEGRATED CHILD PROTECTION SCHEME", DATED 18.12.2009.
Exhibit P6	TRUE COPY OF THE COMMUNICATION OF THE 1ST RESPONDENT D.O.NO. CW-II-22/42/2022-CW-II (E-104516), DATED 31.03.2023.
Exhibit P7	TRUE COPY OF THE RELEVANT EXTRACT OF THE STANDARD OPERATING PROCEDURE FOR THE CHILD HELP LINE UNIT AS CIRCULATED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.
Exhibit P8	TRUE COPY OF THE RELEVANT EXTRACT OF THE STANDARD OPERATING PROCEDURE FOR THE HUMAN RESOURCES UNIT AS CIRCULATED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

Exhibit P9	TRUE COPY OF THE RELEVANT EXTRACT OF POSTS, NUMBER OF STAFFS, QUALIFICATION AND ROLES AND RESPONSIBILITIES PRESCRIBED BY THE 1ST RESPONDENT FOR THE CHILD HELP LINE UNIT AT THE DISTRICT CHILD PROTECTION UNITS.
Exhibit P10	TRUE COPY OF THE NOTIFICATION NO.ICPS-5/079/2023 OF THE 3RD AND 4TH RESPONDENT, DATED 01.07.2023.
Exhibit P11	TRUE COPY OF THE NOTIFICATION NO.ICPS-5/079/2023 OF THE 4TH RESPONDENT DATED 04.07.2023.
Exhibit P12	TRUE COPY OF THE NOTIFICATION NO.ICPS-5/079/2023 OF THE 3RD RESPONDENT DATED 04.07.2023.
Exhibit P13	TRUE COPY OF THE NOTIFICATION OF THE 6TH RESPONDENT NO.TCPUKKD/1072/2023-A2, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P14	TRUE COPY OF THE NOTIFICATION OF THE 7TH RESPONDENT NO.DCPO/W/J/1569, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P15	TRUE COPY OF THE NOTIFICATION OF THE 8TH RESPONDENT NO.DCPU/EKD/3132/2023, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P16	TRUE COPY OF THE NOTIFICATION OF THE 9TH RESPONDENT NO.DCPU/KSD/1484/2023, DATED 10.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P17	TRUE COPY OF THE NOTIFICATION OF THE 10TH RESPONDENT NO.DCPU/MPM/2715/2023, POIC92/2023, DATED 06.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P18	TRUE COPY OF THE NOTIFICATION NO.DCPO/T/C1/981/2023 OF THE 11TH RESPONDENT, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.

Exhibit P19	TRUE COPY OF THE NOTIFICATION NO.DCPU(PTA)/ 154/2023 OF THE 12TH RESPONDENT, DATED 06.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P20	TRUE COPY OF THE NOTIFICATION NO.DCPU/KLM/ 1614/2023 OF THE 13TH RESPONDENT, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P21	TRUE COPY OF THE NOTIFICATION NO.70/2023/DCPU/IDK OF THE 14TH RESPONDENT, DATED 10.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P22	TRUE COPY OF THE NOTIFICATION NO.DCPU/K/577/2023 OF THE 15TH RESPONDENT, DATED 10.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P23	TRUE COPY OF THE NOTIFICATION NO.DCPU(A)/1452/ 2023 OF THE 16TH RESPONDENT, DATED 05.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P24	TRUE COPY OF THE NOTIFICATION NO.DCPU/E/211/2023 OF THE 17TH RESPONDENT, DATED 06.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST.
Exhibit P25	TRUE COPY OF THE NOTIFICATION NO.DCPU/T/502/2023 OF THE 18TH RESPONDENT, DATED 06.07.2023, INCLUDING THE FORMAT OF THE APPLICATION FOR THE POST
Exhibit P26	TRUE COPY OF THE E-MAIL OF THE 6TH RESPONDENT TO THE PETITIONER, DATED 16.07.2023.
Exhibit P27	TRUE COPY OF THE REPRESENTATION OF THE PETITIONER BY E-MAIL TO THE 3RD RESPONDENT, DATED 19.07.2023.
Exhibit P28	TRUE COPY OF THE REPLY OF HEALTH MINISTER BY E-MAIL TO THE PETITIONER ALONG WITH THE TEXT OF EXHIBIT P27 REPRESENTATION, DATED 21.07.2023.

Exhibit P29	**TRUE COPY OF THE REPRESENTATION OF THE PETITIONER BY E-MAIL TO THE HON'BLE CHIEF MINISTER OF KERALA, DATED 12.07.2023 AND ITS REPLY DATED 13.7.2023 BY EMAIL.**
Exhibit P30	**TRUE COPY OF THE RANK LIST ISSUED BY THE 3RD RESPONDENT TO THE POST OF CASE WORKERS IN CHILD HELPLINE CONTROL ROOM.**