

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 25TH FEBRUARY 2010 / 6TH PHALGUNA 1931

WP(C).No. 30846 of 2009(A)

PETITIONER(S):

**P.M. SHARAF MUHAMMED,
DEPUTY CHIEF TRAFFIC OFFICER, K.S.R.T.C
THIRUVANANTHAPURAM, RESIDING AT PUTHUPARAMBIL
KATOOR PETTAH, NARANGANAM NORTH P.O.,
PATHANAMTHITTA.**

BY ADV. MR.S.MUHAMMED HANEEFF

RESPONDENT(S):

- 1. KERALA STATE ROAD TRANSPORT
CORPORATION, REP.BY ITS MANAGING DIRECTOR
TRANSPORT BHAVAN, CHIEF OFFICE,
FORT, THIRUVANANTHAPURAM-23.**
- 2. EXECUTIVE DIRECTOR (OPERATIONS) &
SECRETARY, KERALA STATE ROAD TRANSPORT
CORPORATION, TRANSPORT BHAVAN,
CHIEF OFFICE, FORT, THIRUVANANTHAPURAM-23.**
- 3. M.M.THOMAS, CHIEF TRANSPORT
OFFICER, KSRTC, THIRUVANANTHAPURAM.**

R1 & R2 BY ADV. MR.V.V. NANDAGOPAL NAMBIAR, SC, KSRTC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25/02/2010, ALONG WITH WP(C) NO. 37306 OF 2009 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

ANTONY DOMINIC, J.

**W.P.(C) Nos.30846/09, 37306/09, 115/2010
& 5716/2010**

Dated this the 25th day of February, 2010

J U D G M E N T

In 2003, KSRTC regulations were amended providing that 15% of the posts in the category of Assistant Transport Officer and Administrative Officer will be filled up from among the qualified employees of the KSRTC. That regulation was under challenge before this court in WP(c).No.12159/06 and connected cases. The writ petitions were disposed of by judgment dated 7th August, 2009 holding that the appointments which were made in the meanwhile were irregular for want of consultation with PSC as required in terms of the provisions contained in the Kerala Public Service Commission (Additional Functions as respects the KSRTC) Act 1970 and the Rules framed there under. The petitioners in WP(c).Nos.30846/2009, 37306/2009 and 115/2010 are persons who are appointed in the meanwhile to the post of Assistant Transport Officer. In the judgment referred to above, after having found that the appointments are invalid for want of consultation this court issued the following directions.

“Taking all the aforesaid factors into consideration, it is ordered that the Corporation will immediately take up necessary follow up action to commence and complete the consultation process with the PSC. The State Government will also do the needful and the PSC will ensure that such proceedings are not held up having regard to the fact that the regulations were conceived some time in 2003. As of now, those who have been given the benefit of the 2003 Regulations would continue to enjoy the same provisionally in terms of the orders of appointment issued by the Managing Director in their cases and any selection process could also be completed as regards the 15% internal recruitment candidates and even appointment orders and any incumbent joining duty in any such posts, would be provisional and subject to review by the Managing Director on the basis of the final outcome of the consultation process. These writ petitions are ordered accordingly.”

2. Accordingly, the KSRTC took up the matter with the PSC and the PSC has issued letter dated 16.12.2009, which is produced as Ext.P9 in WP(c).No.5716/2010.

3. In so far as WP(c)Nos.30846/2010,37306/2010 and 115/2020 filed by the appointees are concerned, what they claim is that since their appointment they are continuing in service, earned promotions but however are now being overlooked in the matter of

promotion to the post of Chief Transport Officer. On the other hand in WP(c).No.5716/2010 filed by the Transport Democratic Front and another, what they contend is that now that in pursuance to the judgment of this court, the matter was taken up with the PSC and since the PSC has clarified its position by its letter dated 16.12.2009 referred to above, the appointments are to be invalidated.

4. In the judgment in WP(c).No.12159/2006 and connected cases referred to above, this court directed the KSRTC to initiate consultation with the PSC in view of the provisions contained in Section 3 of the Act referred to above. It is in response to that the PSC has issued the letter dated 16.12.2009. Now that the matter is pending before the KSRTC, it is for the KSRTC to consider the response of the PSC and take a decision in the matter. Obviously, if there is a conflict between the KSRTC and PSC, it is also open to the KSRTC to take up the matter with the Government and seek appropriate orders.

5. Therefore, at this stage what is required to be done is that the KSRTC should finally decide on this matter duly taking into account the views expressed by the PSC in its letter dated

16.12.2009. This the KSRTC shall do as expeditiously as possible and at any rate within 6 weeks from the date of production of a copy of the judgment. Depending upon the final decision so taken, and if the decision is in favour of the appointees, their claim for promotion will also be considered by the KSRTC.

Writ petitions are disposed of as above.

(ANTONY DOMINIC)
JUDGE

vi/