

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

OP(KAT).No. 162 of 2015 (Z)

ORDER DATED 11/05/2015 IN OA. NO.742/2015 OF THE KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

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PETITIONER(S):

1. RASHMI P.R., AGED 43 YEARS,
W/O.VINODKUMAR, CLERK,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM-695 001,
RESIDING AT TC. 13/9197, PATTOOR, PATTOOR P.O.,
THIRUVANANTHAPURAM, PIN-695 024.
2. JASAR ARIOT, AGED 47 YEARS,
W/O.SABU GEORGE, CLERK,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM-695 001, RESIDING AT PRA B6A,
PERAPPUR, MUKKOLA P.O., THIRUVANANTHAPURAM-695 043.
3. MEERA G.K., AGED 51 YEARS,
W/O.K. SIVADASAN, CLERK,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM-695 001, RESIDING AT FLAT NO.2C,
KOWDIAR HEIGHTS, 'PANDITS COLONY', KOWDIAR P.O.,
THIRUVANANTHAPURAM-695 003.
4. LATHA A., AGED 51 YEARS,
W/O.PRATHAP SINGH K.G., CONFIDENTIAL ASSISTANT,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM, PIN-695 001,
RESIDING AT K.K. VILAS, KATTACHALKUZHY P.O.,
BALARAMAPURAM, THIRUVANANTHAPURAM, PIN-695 509.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY,
SMT.N.SANTHA,
SRI.K.A.BALAN,
SRI.PETER JOSE CHRISTO,
SRI.S.A.ANAND,
SMT.L.ANNAPOORNA,
SRI.SAJU JOHN,
SRI.V.VARGHESE.

OP(KAT).No. 162 of 2015 (Z)

RESPONDENT(S):

**1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001.**

BY GOVT. PLEADER SRI.JOSEPH GEORGE.

**THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 29-05-2015, ALONG WITH OP(KAT).NO. 165 OF 2015 ,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(KAT).No. 162 of 2015 (Z)

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 COPY OF THE O.A. NO.742/2015 FILED BY THE PETITIONERS
BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM.

EXT.P2 COPY OF THE ORDER DATED 11/05/2015 IN O.A. NO.742/2015
OF THE KERALA ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM.

RESPONDENTS' EXHIBITS:

NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

**C.K. ABDUL REHIM, J.
&
K. RAMAKRISHNAN, J.**

O.P (KAT) Nos. 162 & 165 OF 2015

DATED THIS THE 29th DAY OF MAY, 2015

J U D G M E N T

Abdul Rehim, J:

Since the challenge in both these Original Petitions are against similar orders passed by the Kerala Administrative Tribunal (KAT) on the very same issue, these OPs were considered together and disposed of through this common judgment.

2. The applicants before the Tribunal, who are the petitioners herein, have challenged the Government order, G.O (MS) No.96/2015/G.Edn, dated 27-04-2015 before the KAT. They were originally employees of the Mahatma Gandhi University and Calicut University, who were sent on deputation to the newly formed Directorate of High Secondary Education, about more than 1½ decades ago. In the order of deputation it was clarified that they would be

absorbed in the Department of Higher Secondary Education after framing the Special Rules. It is an admitted fact that no Special Rules were framed in the Department of Higher Secondary Education, till now. By the order impugned before the Tribunal the Government have asked the petitioners and others who are on deputation to exercise option as to whether they want to continue in the Department or not, within a time limit stipulated. Against the said order they have approached the Government in a representation, basically seeking permission to allow them to continue in the Directorate until Special Rules are framed. The Tribunal while disposing the matter directed the Government to consider the request made by the petitioners to take a decision within a period of 3 months, after affording opportunity of personal hearing to the petitioners. It was clarified by the Tribunal that the petitioners will be at liberty to exercise their option without prejudice to their contentions contained in the representation, which was directed to be disposed of. It was

also clarified that exercise of such option if any made will not however affect their claims in the request pending before the Government. In these OPs the order of the Tribunal is under challenge to the extent it does not specifically prevented the cancellation of deputation and reversion of the petitioners back to the Universities, pending consideration and disposal of the representation by the Government.

3. Learned counsel appearing for the petitioners in both these cases contended that the petitioners cannot at present exercise their option, until the Special Rules are framed, because they are not in a position to ascertain their career prospects in the Directorate. Apprehension expressed is to the effect that, if they are reverted back to the Universities on the basis of non-exercise of option, as directed in the order of the Government, dated 27-04-2015, while pending decision of the Government on their representation, it will cause severe prejudice that they will lose the chance to opt to continue at the Directorate any

further. But, we notice that sufficient safe guard was already provided in the order of the Tribunal, making it clear that exercise of option if any made will not cause prejudice to them with respect to decision if any taken by the Government.

4. Learned Government Pleader appearing on behalf of respondents, on instructions submitted that, a proceedings has already been issued by the Director of Higher Secondary Education on 28-05-2015 to the effect of relieving those deputationists who have not exercised the option and who have exercised the option subject to prescribing conditions. Therefore it is contended that the relief sought for in this OPs has become infructuous.

5. While considering the rival contentions we are of the considered opinion that, by virtue of the order of the Tribunal the Government is bound to consider the request made by the petitioners for permitting them to continue at the Directorate until the Special Rules are framed. If the Government is taking a favourable decision in this regard,

naturally the petitioners have to be retained at the Directorate.

6. Therefore, we are of the opinion that ends of justice can be achieved by clarifying that the Government should take a decision as directed in the orders of the Tribunal impugned herein, notwithstanding the fact that whether the petitioners have exercised any option or notwithstanding the fact whether they were already relieved back to the Universities concerned. It is also made clear that if the Government takes any decision favourable to the petitioners by permitting them to continue in the Directorate, then they should be posted back to the Directorate, notwithstanding orders if any already issued to the effect of relieving them. Considering urgency of the matter, we are also inclined to modify the order of the Tribunal to the extent of shortening the time limit stipulated for disposal of the representation by the Government, to 2 months from today. It is further directed that if the petitioners' request is declined by the Government, they

shall be given a further opportunity to exercise options within a time limit of two weeks thereafter.

Both these cases are disposed of subject to the above observations, clarifications and directions.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge