

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 31ST DAY OF JULY 2017/9TH SRAVANA, 1939

WP(C).No. 41355 of 2016 (T)

PETITIONER :

**DEEPU ANAND,
S/O. LATE ANANDA KUMAR, AGED 41 YEARS,
MADUKKAYIL HOUSE, CHERUVALLY P.O, MANIMALA,
KOTTAYAM -686 543, COMPUTER PERSONNEL,
EDP CELL, PONKUNNAM DEPOT, KSRTC.**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S):

- 1. THE KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
TRANSPORT BHAVAN, FORT P.O, THIRUVANANTHAPURAM-695 023.**
- 2. THE CHAIRMAN AND MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT P.O, THIRUVANANTHAPURAM-695 023.**
- 3. THE EXECUTIVE DIRECTOR [ADMINISTRATION],
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, FORT P.O, THIRUVANANTHAPURAM-695 023.**
- 4. THE ASSISTANT TRANSPORT OFFICER,
KSRTC, PONKUNNAM DEPOT-686 506.**
- 5. ARYA GOPIDAS, JUNIOR ASSISTANT,
KSRTC, PONKUNNAM DEPOT-686 506.**

**R1 TO R4 BY SRI.T.P.SAJAN,SC, KSRTC
SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC
R5 BY ADV. SRI.N.SASIDHARAN UNNITHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31-07-2017,ALONG WITH WP(C).NO.30056 OF 2016 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

WP(C).No. 41355 of 2016 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE DEGREE CERTIFICATE FOR M.COM ISSUED BY THE MAHATMA GANDHI UNIVERSITY.

EXHIBIT P2. COPY OF THE CERTIFICATE ISSUED BY ER & DCI.

EXHIBIT P3. COPY OF THE INFORMATION GIVEN BY THE KSRTC VIDE LETTER NO.EDP/004217/13 DATED 5.10.13.

EXHIBIT P3[A]. COPY OF THE CIRCULAR MEMORANDUM ISSUED BY THE KSRTC VIDE PLI/038684/06 DATED 7.5.13.

EXHIBIT P4. COPY OF THE MEMORANDUM VIDE NO.PLI-38684/06 DATED 11.4.13.

EXHIBIT P5. COPY OF THE MEMORANDUM NO.PLI/38684/06 DATED 21.12.16.

RESPONDENT(S)' EXHIBITS

EXHIBIT R5(A) COPY OF THE PROVISIONAL CERTIFICATE DATED 7/3/2016 ISSUED FROM THE INDIRA GANDHI OPEN UNIVERSITY

EXHIBIT R5(B) COPY OF THE CERTIFICATE DATED 3/3/2016 ISSUED BY THE INFOGRAFIX TECHNICAL TRAINING AND SERVICES

EXHIBIT R5(C) COPY OF THE MEMORANDUM DATED 28/12/2016 SHOWING THE SUCCESSFUL COMPLETION OF THE TRAINING ISSUED BY THE KSRTC

/TRUE COPY/

P.A.TO JUDGE

sts

SHAJI P. CHALY, J.

**W.P.(C). Nos. 41355 & 30056 of 2016,
23448 & 24286 of 2017**

Dated this the 31st day of July, 2017

JUDGMENT

These writ petitions are filed basically challenging a memorandum issued by the first respondent Corporation dated 11.07.2017, whereby, it is stated that the conductors posted as computer persons, is seriously affecting the service operation and in the circumstance, all unit officers are directed to select one typist/assistant for the post of computer person and get trained in programmes from EDPC, KSRTC. The exercise was directed to be completed on or before 20.07.2017 and as and when the trained persons reported the existing arrangement is dispensed with immediately. The case put forth by the petitioners is that as per a memorandum dated 16.12.2006, applications were invited from qualified employees, who are in active service of the KSRTC, who possess B-tech in computer

engineering/IT/DCA/PGDCA/BCA/MCA or any other qualification in computer application from recognised institution for preparing a panel of computer professionals, and all unit officers were then directed to obtain the applications from among qualified employees in the proforma appended along with the willingness to work in the computer section, chief office and depots. It is also contended that subsequently Government has issued an order, whereby in the Government Departments and all public sector undertakings an I.T. Division is to be maintained. However, overlooking the creation of independent department by appointing the qualified persons the KSRTC intended a permanent affair and therefore, by issuing memorandum dated 11.07.2017 to do away with such a creation of department is not in accordance with law. It is also contended that petitioners were not heard before any such orders are passed by the KSRTC.

2. A statement is filed by the respondents stating that it has formed an IT section as Electronic Data Processing Cell (EDP Cell) in the ministerial wing of KSRTC, as early as in the year 2000. In the beginning, the EDP cell was formed in limited units of KSRTC. Since, it was decided to improve the working of the EDP Cell and to establish EDP Cell in more and more units, the KSRTC decided to prepare a panel of computer professionals so as to engage them in the EDP Cell of the units, so as to operate the computer system in the concerned units. It is also stated since there was dearth of employees knowing computer operation in the ministerial staff, applications were invited from among the staff of the Corporation, who possess the requisite qualification in computer application from a recognised institution for the preparation of panel. Pursuant to the notification, a list was prepared of persons who are qualified in computer operation for a posting at EDP Cells of the Units of the KSRTC, and they were posted on working arrangement as

a temporary measure, till sufficient number of assistants are made available in the ministerial staff. It is also submitted that at present, the Corporation is having adequate number of junior assistants and typists with proper knowledge in computer application, so that they can be engaged in the post of computer assistants without engaging conductors on working arrangement basis. Since the people who are engaged on working arrangement are occupying the posts in EDP Cells of the units, the person who are having proper knowledge in computer application among the ministerial staff are idling. The corporation is not in a position to engage them in the EDP cells. It is also submitted that the Corporation is confronted with a situation of acute shortage of conductors and subsequent cancellation of bus service. Other contentions are also raised. I am not traversing through the same, in view of the limited nature of order I propose to pass in the facts and circumstances of the case.

3. Having heard learned counsel for the petitioners and learned Standing Counsel for the Corporation, I think since the petitioners occupy a post even temporarily pursuant to invitation of applications and issuance of notification by the Corporation, I think it is only appropriate that if and when a decision is taken to re-engage them, to issue notice to each of them and provide with an opportunity of hearing.

4. In that view of the matter, the memorandum issued by the first respondent Corporation dated 11.07.2017 is treated as a show cause notice enabling the petitioners to submit an objection to the same. If the petitioners make any objection to the said memorandum issued by the Corporation within one week from the date of receipt of a copy of this judgment, the same shall be finally considered by the Corporation after providing opportunity of hearing to all concerned, within three weeks thereafter. Till such time, the interim order passed by this Court in the writ petitions will continue

and in other cases where there is no interim order, petitioners shall not be reposted to the erstwhile post, till such time the final decision is taken.

Writ petitions are disposed of accordingly.

SHAJI P. CHALY
JUDGE

DCS