

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 28TH DAY OF MARCH 2018 / 7TH CHAITHRA, 1940

OP(KAT).No. 136 of 2018

AGAINST THE ORDER IN OA(EKM) 2081/2016 OF KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM DATED 08-02-2018

PETITIONER

O.P.PRADEEP
AGED 36 YEARS, S/O. V.U PRABHAKARAN,
OORICKANAL HOUSE, POTHANIKKADU,
PIN 686 671, ERNAKULAM, KERALA

BY ADVS.SRI.P.R.MADHUSUDANAN
SMT.K.HASEENA

RESPONDENTS:

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1. THE SECRETARY, AGRICULTURAL DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM, KERALA 695 001.
 2. THE DIRECTOR
AGRICULTURE DEVELOPMENT,
FARMERS WELFARE, VIKAS BHAVAN,
THIRUVANANTHAPURAM, KERALA-695 033
 3. THE PRINCIPAL AGRICULTURAL OFFICER
OFFICER OF THE PRINCIPAL AGRICULTURAL OFFICER,
ERNAKULAM 682 031
 4. THE ASSISTANT DIRECTOR OF AGRICULTURE,
KOTHAMANGALAM, ERNAKULAM
OFFICE OF THE ASSISTANT DIRECTOR OF AGRICULTURE,
ERNAKULAM
 5. STATE OF KERALA
REPRESENTED BY GOVERNMENT PLEADER,
HIGH COURT OF KERALA, ERNAKULAM- 682 031, KERALA

BY SR GOVERNMENT PLEADER SRI.A.J. VARGHESE

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 28-03-2018, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

sdr/-

25.04.18

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE O.A 2081/2016 FILED BY THE 18TH
 PETITIONER

EXHIBIT P2 TRUE COPY OF THE ORDER DATED 8/2/22018 IN O.A NO
 2081/2016

RESPONDENTS EXHIBITS NIL

/TRUE COPY/

PA TO JUDGE

sdr/-
25.04.18

K.SURENDRA MOHAN & P.V.ASHA JJ.

O.P.(KAT) No.136 of 2018

Dated this the 28th day of March, 2018

J U D G M E N T

K.Surendra Mohan, J.

The petitioner is working as a Driver cum Attender under the 4th respondent. According to him, he was selected after an interview and practical test and was appointed on contract basis. Initially he was paid a salary of Rs.10,000/- per month, which was subsequently enhanced to Rs.18,000/-. It is contended that he was selected on the basis of a due selection process. Apprehending that he would be terminated from service he had approached the Kerala Administrative Tribunal (KAT) by filing O.A.No.2081 of 2016. The O.A has been disposed of by Ext.P2, with the following directions:

“Though the applicants, contractual employees to the post of Drivers-cum-Office Attenders, are not entitled for retention in service, their termination from service shall be for effecting appointments through Employment Exchange in accordance with the provisions of the Employment Exchange (Compulsory notification of vacancies) Act, 1959. The applicants shall be retained in service till they are replaced by contractual appointees/provisional appointees engaged through Employment Exchange.”

2. According to the learned counsel for the petitioner, the case of the petitioner is squarely covered by the decision in State of Haryana and Others v. Piara Singh and Others [1992 (4) SCC 118]. In the said case, it has been held that termination of temporary employees already working in a post shall be only for the purpose of accommodating a regularly selected person and it shall not be for appointing another candidate on temporary basis. In view of the above, it is contended that the petitioner is entitled to an order directing continuance in service.

3. The contentions of the learned counsel for the petitioner are opposed by the learned Government

Pleader. According to the learned Government Pleader, the Supreme Court decision has been distinguished by this Court in two Division Bench decisions. Therefore, it is contended that the said dictum is not applicable to the service in the State.

4. Heard. The facts in this case are not disputed. Petitioner admits that he is a temporary employee. His only case is that, he shall not be terminated for accommodating other employees on temporary basis. As already noticed above, reliance is placed on the Supreme Court decision in 1992 (4) SCC 119 (supra). We notice that, in the decision in C.Latha v. State and Others [1993 (2) KLJ 497], a Division Bench of this Court has noticed that in sharp contrast to the situation in the State of Haryana, the Kerala State & Subordinate Service Rules (KS&SSR for short) contains a specific provision in Rule 9(a)(i) that permits temporary appointments for periods not exceeding 180 days. In view of the above provision, it

has been held that temporary appointments in the State service shall be governed by the provisions contained therein. The dictum in the said case has been followed by another Division Bench judgment in Vinod v. State of Kerala [1998 (1) KLT 607].

In view of the Division Bench decisions referred to above, which are binding on us, we do not find any grounds to admit this original petition or to grant the reliefs sought for. As noticed above, in paragraph 19 of the impugned order, Ext.P2, the KAT has granted the petitioner, the only relief that is available in the present circumstances.

In the result, the O.P.(KAT) is dismissed.

Sd/-

K. SURENDRA MOHAN, JUDGE

Sd/-

P.V.ASHA, JUDGE