



2024:KER:80500

O.P. (KAT) No.447 of 2024

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C.R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 29TH DAY OF OCTOBER 2024 / 7TH KARTHIKA, 1946

OP (KAT) NO. 447 OF 2024

AGAINST THE ORDER DATED 08.10.2024 IN OA NO.782 OF
2024 OF KERALA ADMINISTRATIVE TRIBUNAL, ERNAKULAM

PETITIONERS/APPLICATNS:

- 1 THE KERALA STATE GOVERNMENT AYURVEDA MEDICAL OFFICERS' ASSOCIATION REPRESENTED BY ITS GENERAL SECRETARY DR.V.J. SEBBY, AGED 51 YEARS S/O I. JUSTUS, CHIEF MEDICAL OFFICER, GOVERNMENT AYURVEDA HOSPITAL, NEDUMANGAD, THIRUVANANTHAPURAM (DT.) – 695541 & NOW RESIDING AT USHAS, OPPOSITE CSI CHURCH, VLANGAMURI, NEYYATTINKARA, THIRUVANANTHAPURAM (DT), PIN - 695 121
- 2 THE KERALA GOVERNMENT AYURVEDA PHARMACISTS' ASSOCIATION REPRESENTED BY ITS STATE PRESIDENT K V SABU, AGED 54 YEARS, S/O VELAYUDHAN, PHARMACIST GRADE I (HIGHER GRADE), DISTRICT AYURVEDA HOSPITAL, KACHERIPADI P O, ERNAKULAM (DT) - 682 018 &, NOW RESIDING AT KANNAPALLIL HOUSE, KUMBALANGHI P O, KOCHI, ERNAKULAM (DT), PIN - 682 007



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- 3 THE KERALA GOVT AYURVEDA THERAPIST ASSOCIATION
REPRESENTED BY SREEHARI, AGED 35 YEARS
S/O SREEDHARAN NAIR, AYURVEDA THERAPIST, DISTRICT
AYURVEDA HOSPITAL, ERNAKULAM (DT) & STATE
COMMITTEE MEMBER, NOW RESIDING AT CMC-23,
CHERTHALA PO, ALAPPUZHA (DT), PIN - 688 524
- 4 THE KERALA GOVERNMENT AYURVEDA NURSES ASSOCIATION
REPRESENTED BY ITS TREASURER, R L KALARANI
AGED 45 YEARS, W/O BABY JOHN, NURSE GRADE I
(HIGHER GRADE), GOVERNMENT AYURVEDA HOSPITAL,
NORTH PARAVUR, ERNAKULAM (DT) - 683 513 AND NOW
RESIDING AT PARAYIL VEEDU, KOLLAMMURI ROAD,
EDAPPALLY PO, ERNAKULAM (DT), PIN - 682 021
- 5 THE KERALA GOVERNMENT AYURVEDA DEPARTMENT
ATTENDERS, NURSING ASSISTANT & FOURTH GRADE
EMPLOYEES ASSOCIATION REPRESENTED BY VINOD P.S
AGED 39 YEARS, S/O P K SUBRAMANIAN, WORKING AS
ATTENDER GRADE I, GOVERNMENT AYURVEDA DISPENSARY,
VALLIVATTOM PO, TRICHUR (DT) 680 123, NOW
RESIDING AT PATAKKAL HOUSE, ANAPPUZHA PO, TRICHUR
(DT), PIN - 680 667

BY ADVS.
R.REJI KUMAR
P.R.JAYAKRISHNAN

RESPONDENTS/RESPONDENTS:

- 1 THE STATE OF KERALA, REPRESENTED BY: THE SECRETARY
TO GOVERNMENT, AYUSH DEPARTMENT, 7TH FLOOR ANNEX
II GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
(DT), PIN - 695 001
- 2 THE SECRETARY TO GOVERNMENT, HEALTH AND FAMILY
WELFARE DEPARTMENT, ROOM NO.660, 3RD FLOOR, SOUTH
BLOCK, SECRETARIAT, THIRUVANANTHAPURAM (DT), PIN -
695 001
- 3 THE SECRETARY TO GOVERNMENT, THE PERSONNEL &
ADMINISTRATIVE REFORMS DEPARTMENT, SECRETARIAT,



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THIRUVANANTHAPURAM (DT) , PIN - 695 001

4 THE DIRECTOR, DIRECTORATE OF INDIAN SYSTEMS OF
MEDICINE, AROGYA BHAVAN, PB NO.82,
THIRUVANATHAPURAM (DT) , PIN - 695 001

A.J.VARGHESE SR GP

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP
FOR ADMISSION ON 29.10.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**C.R.**

J U D G M E N T

A. Muhamed Mustaque, J.

This original petition raises an important question as to the maintainability of the original application filed by the association before the Kerala Administrative Tribunal. The Tribunal, noting the Judgment in O.P (KAT) No.316 of 2014, was of the view that the application filed at the instance of association is not maintainable.

2. There cannot be much dispute to the fact that a 'person' referred to under Section 19 of the Administrative Tribunals Act, 1985 includes an association as well. A 'Person' is defined under Section 3(42) of the General Clauses Act, 1897 includes Association or body of individuals. Section 19 of the Administrative Tribunals Act, 1985 says that a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance. Section 20 of the Administrative Tribunals Act, 1985 states that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. A combined reading of the



above provisions clearly indicates that the individuals' grievances alone can be taken up before the Tribunal.

3. In O.P. (KAT) No.316 of 2024, a Division Bench of this Court, after noting the maintainability of the application filed at the instance of an association, had held that a transfer order passed in violation of executive order can only be challenged by the aggrieved person and not by the association. We also endorse the view regarding transfer orders, the aggrieved individuals will have to challenge such orders individually. However, we note that if there are numerous individuals, nothing prevents the individuals from espousing their cause through an association, as the association also can be deemed as aggrieved. However, in that application, the details of such aggrieved persons will have to be mentioned or enlisted so as to espouse the grievances before the Tribunal.

4. Filing an original application on behalf of its members may arise in different circumstances. 1) espousing individual grievances of members. 2) common grievances of members or an association. In both scenarios, the application is maintainable. However, in respect of the first ground, the list of aggrieved will have to be furnished before the Tribunal. In the second scenario, there is no such situation as the association is espousing the common grievances of its members. The second scenario may arise in cases like



challenging the Rules or any other transfer norms etc, where there may not be identical individuals but the challenge would be in respect of Rules or norms as the case may be.

5. The Tribunal in this case appears to have blindly followed the Judgment of this Court in O.P. (KAT) No.316 of 2024, wherein this Court held it in a particular circumstance of transfer, without there being an individual, such an application is not maintainable before the Tribunal. We make it clear that, if there is more than one person, all of them can join in one petition through an association to maintain the original petition. But in that process, the individuals list will have to be furnished.

6. We have gone through the prayers in this original application and we find that the substance of challenge is against Annexure A15 rejecting the representation made by the association. According to the petitioners, the rejection of the representation is not in conformity with the existing Government Order referred as Annexure A1. The reliefs sought by the petitioners are legally sustainable. We make it clear that we have not decided anything relating to the entitlement of relief sought by them. We have only decided on the question relating to the formality of the institution in filing of the original application by the association. The maintainability of the petition has to be distinguished from the entitlement for the reliefs to



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which the applicant is entitled, which is a matter to be considered on its merits. We hold that the application filed by the association is maintainable in the circumstances referred to above. In respect of individual grievances, except in the circumstances as above, the law that has to be followed is as laid down by this Court in O.P. (KAT) No.316 of 2024. We set aside the impugned order and direct the Tribunal to consider the matter afresh in accordance with the law. The parties are directed to appear before the Tribunal on 25.11.2024.

This original petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

Sd/-

P.M.MANOJ

JUDGE

PR



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APPENDIX OF OP(KAT) 447/2024

PETITIONER ANNEXURES

- Annexure A.1 TRUE COPY OF THE GO (P) NO. 3/2017/P&ARD
DATED 25-02-2017 ISSUED BY THE 3RD
RESPONDENT
- Annexure A.2 TRUE COPY OF THE GO (MS) NO. 149/1995 /H&FWD
(A) DATED 04-05-1995 ISSUED BY THE
SECRETARY, HEALTH AND FAMILY WELFARE
DEPARTMENT
- Annexure A.3 TRUE COPY OF THE ORDER DATED 28-10-2022 IN
OA (EKM) NO.1607/2022 OF THE HON'BLE KERALA
ADMINISTRATIVE Tribunal, ADDITIONAL BENCH,
ERNAKULAM
- Annexure A.4 TRUE COPY OF THE MINUTES OF MEETING NO.D3-
134742/2021 DATED 27-02-2023 ISSUED BY THE
4TH RESPONDENT
- Annexure A.5 TRUE COPY OF THE CIRCULAR NO. DISM
1067/2022-IT1 DATED 18-03-2023 ISSUED BY THE
4TH RESPONDENT
- Annexure A.6 TRUE COPY OF THE ORDER DATED 30-03-2023 IN
OA (EKM) NO.551/2023 OF THE HON'BLE KERALA
ADMINISTRATIVE Tribunal, ADDITIONAL BENCH,
ERNAKULAM
- Annexure A.7 TRUE COPY OF THE LETTER NO. A2/131/2023
-AYUSH DATED 05-05-2023 ISSUED BY THE 1ST
RESPONDENT TO THE 4TH RESPONDENT
- Annexure A.8 TRUE COPY OF LETTER NO.A2/112/2023-AYUSH
DATED 09-05-2023 ISSUED BY THE 1ST
RESPONDENT TO 4TH RESPONDENT
- Annexure A.9 TRUE COPY OF THE COMMUNICATION
NO.DISM/1129/2023-D3 DATED 22-05-2023 ISSUED
BY THE 4TH RESPONDENT
- Annexure A.10 TRUE COPY OF THE GO (MS) NO. 79/2023/LSGD
DATED 22-03-2023 ISSUED BY THE DEPUTY
SECRETARY, LSGD (ERA) DEPARTMENT
- Annexure A.11 TRUE COPY OF THE GO (RT) NO.242/2023/AYUSH



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DATED 01-07-2023 ISSUED BY THE 1ST
RESPONDENT TO THE 4TH RESPONDENT

- Annexure A.12 TRUE COPY OF THE ORDER DATED 20-02-2024 IN
OA (EKM) NO.1704/2023 OF THE KERALA
ADMINISTRATIVE Tribunal, ADDITIONAL BENCH,
ERNAKULAM
- Annexure A.13 TRUE COPY OF THE LETTER NO. DISM/1129/2023-
D3(1) DATED 05-04-2024 ISSUED BY THE 4TH
RESPONDENT
- Annexure A.14 TRUE COPY OF THE ORDER DATED 08-04-2024 IN
CP (EKM) NO.51/2024 IN OA (EKM) NO.555/2023
OF THE HON'BLE KERALA ADMINISTRATIVE
Tribunal, ADDITIONAL BENCH, ERNAKULAM
- Annexure A.15 TRUE COPY OF THE GO (RT) NO.172/2024/AYUSH
DATED 18-05-2024 ISSUED BY THE 1ST
RESPONDENT
- Annexure A.16 TRUE COPY OF GO (RT) NO.2485/2021/RD DATED
30-07-2021 ISSUED BY THE ADDITIONAL CHIEF
SECRETARY, REVENUE DEPARTMENT (C) DEPARTMENT
- Annexure A.17 TRUE COPY OF CIRCULAR NO. LR/8067/2023-LR
(E1) DATED 30-04-2024 ISSUED BY THE LAND
REVENUE COMMISSIONER
- Annexure A.18 TRUE COPY OF THE LETTER NO.A2/81/2020/AYUSH
DATED 24-03-2020 ISSUED BY THE 1ST
RESPONDENT TO THE 4TH RESPONDENT
- Annexure A.19 TRUE COPY OF THE CIRCULAR NO.
DISM/1200/2024-D3 DATED 25-07-2024 ISSUED BY
THE 4TH RESPONDENT
- Annexure A.20 TRUE COPY OF REPRESENTATION BEARING NO.
94/2024/ASSN DATED 25-09-2024 SUBMITTED
BEFORE THE 1ST RESPONDENT BY 1ST APPLICANT.
- Annexure A.21 TRUE COPY OF REPRESENTATION BEARING NO. K-
136/2024 DATED 19-06-2024 SUBMITTED BEFORE
THE 4TH RESPONDENT BY 2ND APPLICANT.
- Annexure A.22 TRUE COPY OF DRAFT REPORT FOR VERIFICATION
IN RESPECT OF MEDICAL OFFICERS ALONG WITH
ORDER NO.DISM/1200/2024-D3 DATED 11-09-2024
ISSUED BY THE 4TH RESPONDENT.



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- Annexure A.23 TRUE COPY OF JUDGMENT DATED 26-10-2021 IN CIVIL APPEAL NO. 5829 – 5830 OF THE HON'BLE SUPREME COURT.
- Exhibit P.1 CERTIFIED COPY OF ORDER DATED 08-10-2024 IN OA EKM NO.782 OF 2024 OF HON'BLE KERALA ADMINISTRATIVE Tribunal
- Exhibit P.2 TRUE COPY OF OA EKM NO.782 OF 2024 FILED BEFORE THE KERALA ADMINISTRATIVE Tribunal BY THE PETITIONERS
- Exhibit P.3 TRUE COPY OF MA NO.886/2024 FILED BEFORE THE KERALA ADMINISTRATIVE Tribunal BY THE APPLICANTS
- Exhibit P.4 TRUE COPY OF MA NO.1180/2024 FILED BEFORE THE KERALA ADMINISTRATIVE Tribunal BY THE APPLICANTS
- Exhibit P.5 TRUE COPY OF MA NO.1456/2024 FILED BEFORE THE KERALA ADMINISTRATIVE Tribunal BY THE APPLICANTS
- Exhibit P.6 TRUE COPY OF MA NO.1512/2024 FILED BEFORE THE KERALA ADMINISTRATIVE Tribunal BY THE APPLICANTS