



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 18TH DAY OF NOVEMBER 2024 / 27TH KARTHIKA, 1946

OP(KAT) NO. 130 OF 2021

AGAINST THE ORDER DATED 24/02/2021 IN OA NO.2212 OF
2015 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM
(ADDITIONAL BENCH,ERNAKULAM)

PETITIONERS/APPLICANTS 1 & 2:

- 1 UNNI K.E
NOW AGED 50 YEARS
SON OF GOVINDANKUTTY,
KUNNAPPILLIL HOUSE,
RAMAVARMAPURAM P.O.PIN-680 009,
NOW WORKING AS JOINT BLOCK
DEVELOPMENT OFFICE (EGS)
BLOCK DEVELOPMENT OFFICE,
PUZHALKKAL, PURANATTUKARA P.O.
THRISSUR PIN-680 551,
KERALA, MOBILE NO.9447164793

- 2 P.M. NARENDRANATH,
NOW AGED 50 YEARS
SON OF LATE MOHANAN, POLOOKKARA HOUSE
P.O.KOZHUPPULLY, THRISSUR, PIN-680 752,
NOW WORKING AS JOINT BLOCK
DEVELOPMENT OFFICER (EGS),
BLOCK DEVELOPMENT OFFICE,
ANTHIKKADU, KIZHAKKUMURI P.O,
THRISSUR-678 007,
KERALA, NOW RESIDING AT POLOOKKARA HOUSE,
THANIMA STREE, TENS, MANNUTHY,
KERALA AGRICULTURAL UNIVERSITY P.O.
PIN-680 654,
(NOW WORKING AS JOINT BLOCK
DEVELOPMENT OFFICER (RH))



BLOCK DEVELOPMENT OFFICE, CHALAKUDY,
THRISSUR DISTRICT)

BY ADVS.

K.RAMAKUMAR (SR.)

C.DINESH

T.RAMPRASAD UNNI

S.M.PRASANTH

R.S.ASWINI SANKAR

T.H.ARAVIND

RESPONDENTS/RESPONDENTS & APPLICANT NO.3:

- 1 STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO
GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 2 THE COMMISSIONER FOR RURAL DEVELOPMENT,
THIRUVANANTHAPURAM-695 001, KERALA
- 3 M. SURESHAN,
SON OF MADHAVAN NAIR, AGED 57 YEARS
SNEHASANGEETHAM, VILAYAMCODE P.O.
PILATHARA (VIA) KANNUR, PIN-670 504,
NOW WORKING AS JOINT BLOCK DEVELOPMENT OFFICER
(RURAL HOUSING0 KUNNUMMAL BLOCK DEVELOPMENT
OFFICE, KOZHIKODE-673 507,
KERALA.
- 4 PONSINI P,
FATHERS NAME AND AGE NOT KNOWN TO THE APPLICANTS,
ASSISTANT PROJECT DIRECTOR (WD)
POVERTY ALLEVIATION UNIT, DISTRICT PANCHAYAT,
ALAPPUZHA-688 001.
- 5 SMT.REJANI PULLANIKKAT,
FATHERS NAME AND AGE NOT KNOWN TO THE APPLICANTS,
DISTRICT WOMEN WELFARE OFFICER,
OFFICE OF THE ASSISTANT DEVELOPMENT COMMISSIONER
(GENERAL) COLLECTORATE,
MALAAPPURAM-676 5050



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**BY ADVS .
R.RAJESH (PULLIKADA) (RAMAMOORTHY)
SR.GOVERNMENT PLEADER SMT.NISHA BOSE**

**THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP
FOR ADMISSION ON 01.11.2024, THE COURT ON 18.11.2024
DELIVERED THE FOLLOWING:**

**JUDGMENT****P.Krishna Kumar, J.**

This petition is preferred against the order dated 24/02/2021 in O.A.No.2212 of 2015 of the Kerala Administrative Tribunal.

2. The petitioners are working as Joint Block Development Officers. They challenge Annexure A7 final seniority list of the Village Extension Officers (VEO), which was published on 05.05.2014, alleging that it was prepared without considering their objection to the provisional seniority list and without removing the anomalies in the Kerala General Subordinate Service Posts in the Rural Development Department (Amendment) Special Rules, 2008 (hereinafter referred to as 'the Special Rules, 2008'). It is stated that several juniors were placed above the petitioners in Annexure A7, as the same was prepared on the basis of the date of



promotion to the feeder category instead of their service seniority, based on the date of appointment to the entry post viz. VEO/Lady VEO Grade II.

3. The petitioners were advised by the PSC on 28.1.1991 and 3.5.1991, respectively as VEO (Trainee). After the training, they were appointed as VEOs Grade II, in 1992. They were promoted as Joint Block Development Officers on 19.11.2013 and 06.01.2014, respectively. In the meanwhile, the Government amended the Special Rules, and thereby the posts of VEO/Lady VEO were integrated up to the post of Joint Block Development Officer.

4. Rule 10(4) of the amended Rules provides that the integrated seniority list of *VEO Gr.II* will be prepared *based on the date of advice*. But, as per Rule 10(3), the integrated seniority list of existing *VEO Grade I* and *Lady VEO Grade I* would be prepared *based on the date of promotion*, and the post will be commonly designated as VEO Gr.I.

5. The petitioners contend that the above-said treatment in Rule 10(3) caused serious prejudice to



the existing VEO Gr.I, as those who were advised on a later date in the entry cadre of Lady VEO Gr.II acquired seniority, as they were promoted on earlier dates, due to the abundance of vacancies in their category. The anomaly in the said rule was pointed out by the aggrieved persons and resultantly, the Secretary of the Local Self Govt. (ERB) Department issued a letter to the Government on 26/09/2009 requesting modification of the Rules to limit the scope of integration only to the newly recruited VEOs, but it was not acted upon.

6. It is further contended that, by placing the Lady VEOs above the petitioners who joined the service much earlier than them, the Government ignored the mandate of Articles 14 and 16 of the Constitution and the principles evolving from Rule 35 of Kerala State & Subordinate Service Rules.

7. It is contended that the Kerala Administrative Tribunal completely overlooked the legal questions raised by the petitioners and decided the issue without imbibing the settled



principles of law.

8. Learned Senior Counsel appearing for the petitioners Sri.K.Ramakumar, persuasively argued that the Tribunal mistook the grave injury caused to a group of employees as just a mere 'inconvenience' and thereby wrongly endorsed the discriminatory treatment meted out by the petitioners at the hands of the Government. Referring to the decision in **Y.V.Rangaiah and Others v.J.Sreenivasa Rao and Others [(1983) 3 SCC 284]**, the learned senior counsel argued that Rule 10(3) of the Special Rules, 2008 is to be struck down as inconsistent with the scheme of Article 16 of the Constitution of India. The vacancies that occurred prior to the amended rules should be governed by the old rules and not by the amended rules, the learned senior counsel urged, referring to the ratio of **Rangaiah's** case (supra).

9. The learned Government Pleader and the learned counsel appearing for the respondents contended that there is no illegality in drawing up Annexure A7 final seniority list, based on the date



of promotion to the feeder category. They also submitted that Rule 10(3) of the Special Rules is consistent with Rule 27(c) of the Kerala State and Subordinate Service Rules.

10. For the ease of reference, Rule 10 of the Special Rules is set out herein below:

“10 (1) The integrated seniority list of the existing Joint Block Development Officers and Extension Officer (Women Welfare) Grade 1, ITDP, Attappady shall be prepared according to the date of promotion of the incumbents to the respective post and commonly designated as Joint Block Development Officer.

(2) The integrated seniority list of the existing General Extension Officers, Extension Officers (Housing) Grade II and Extension Officer (Women Welfare) shall be prepared according to the date of promotion of the incumbents to the respective post and commonly designated as Extension Officer.

(3) The integrated seniority list of the existing Village Extension Officer Grade I and Lady Village Extension Officer Grade I **shall be**



prepared according to the date of promotion of the incumbents to the respective post and commonly designate as Village Extension Officer Grade I.

(4) Subject to the provisions under Rule 8, the integrated seniority list of Village Extension Officer Grade II and Lady Village Extension Officer Grade II **shall be prepared according to the date of advice** and if advised on the same day, their combined seniority shall be prepared by Kerala Public Service Commission."

(emphasis added)

11. It is obvious from Rule 10(4) of the Special Rules that the integrated seniority list of Village Extension Officer Grade II is prepared based on the date of advice of the respective candidates, and thereby fairness of treatment is ensured at that stage. The grievance is only in respect of drawing up the integrated seniority list at the Grade I level based on the date of promotion, as ordained in Rule 10(3) of the Special Rules, which is said to be against Article 16 of the Constitution of India.



12. The Apex Court has considered the question relating to the hardships caused to a category of employees due to the integration of certain cadre posts in **T.N. Education Department Ministerial & General Subordinate Services Association etc. v. State of T.N. & Others (AIR 1980 SC 379)**. The Court observed that *“in service jurisprudence, integration is a complicated administrative problem where, in doing broad justice to many, some bruise to a few cannot be ruled out. Some play in the joints, even some wobbling, must be left to the government without fussy forensic monitoring, since the administration has been entrusted by the Constitution to the executive, not to the court.”*

13. In **State Of Sikkim & Ors v. Adup Tshering Bhutia [2014 (3) KLT Suppl. 124 (SC)]**, the Supreme Court succinctly referred to the process of integration as follows:

“Integration of services means the



creation of a homogenous service by the amalgamation or merger of service personnel belonging to separate services. Integration is a policy matter as far as the State is concerned. In evolving a proper coalescence of the services, there are various steps:

(i) Decide the principles on the basis of which integration of services has to be effected;

(ii) Examine the facts relating to each category and class of post with reference to the principle of equivalence;

(iii) Fix the equitable basis for the preparation of common seniority list of personnel holding posts which are merged into one category.

The State is bound to ensure a fair and equitable treatment to officers in various categories/cadres of services while preparing the common seniority list. Being a complicated process, integration is likely to result in individual bruises which are required to be minimised and if not possible, to be ignored. These first principles on



integration are to be borne in mind whenever
a dispute on integration is addressed.”

As observed above, integrating different categories of posts and fixing their *inter se* seniority is a complicated process, and it may result in individual grievances. However, that is not sufficient to nullify the policy decision of the Government or the enabling statutory rule unless there is manifest illegality or arbitrariness.

14. A Division Bench of this Court in **Elsy P. Sebastian and Others v. K.L.Sudhamony and Others (2010 (1) KHC 632)** has considered an identical issue concerning the constitutional validity of the Special Rules for the Kerala Social Welfare Service to the extent it applies to the post of Regional Probation Officer/Assistant Regional Director/Assistant Director of Social Welfare. The validity of the said Rule was challenged on the ground that it violates equality of treatment guaranteed under Articles 14 and 16 of the Constitution of India. The said rule also provides



that a common seniority list has to be prepared on the basis of the date of promotion of the employees in the feeder category to the above said post. It was argued that some employees in a particular feeder category get easy promotion because of the abundance of vacancies and hence the service seniority based on the date of advice would be overturned. Referring to the decision in **Pankajaksy & Others v. George Mathew & Others (1987 (2) KLT 723)**, the Division Bench held that, by the operation of the special rules, if the promotion chances of certain categories of employees become less bright as compared to another category and it might give disadvantage to one group of employees, it may amount to an anomaly which requires rectification at the appropriate level and that should not be a ground to strike down a provision in the subordinate legislation. The court observed that "Only the delegate of the legislature can act to remedy that and not the court".

15. The situation in this case is not



different. Whether the operation of Rule 10(3) of the Special Rules amounts to an anomaly or not is a matter depending on various facts and circumstances. If the proposition of the petitioners is accepted and the service seniority in the entry-level category is considered for all further promotions, the actual length of service in the feeder category will become irrelevant. Giving seniority on the basis of the date of promotion to the feeder category or on the basis of the date of advice to a lower category is a policy decision that requires evaluation of various circumstances.

16. When two categories merge into a common pool, further differentiation on the basis of length of service in the entry cadre, rather than the tenure in the feeder post, itself may be termed as discriminatory, depending on the circumstances. Even otherwise, if there is any anomaly in the abovesaid Rules, it is the authority competent to make the Rules that can remedy it, but it is not the domain of this court.



17. The learned Senior Counsel further assailed Annexure A7 on the ground that in the light of the law laid down in **Rangaiah's** case (supra), the vacancies which occurred prior to the amendment of the Rule should be filled up as per the then existing rule and not on the basis of the new rule. We are unable to accept the said contention as well. A larger Bench of the Honourable Supreme Court in **State of Himachal Pradesh & Others v. Raj Kumar [(2023) 3 SCC 773]** examined the correctness of the ratio of **Rangaiah's** case (supra) in the light of a catena of decisions rendered by the Apex Court on previous occasions and then specifically overruled the ratio of **Rangaiah's** case. Paragraph 37(a) of the said judgment reads as follows:

"The statement in Y. V. Rangaiah v. J. Sreenivasa Rao that, the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules", does not reflect the correct proposition of law governing services under the Union and the States



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under part XIV of the Constitution. It is
hereby overruled".

In the light of the above discussion, we find
no justification for interfering with the findings
of the Tribunal and hence, the original petition is
dismissed.

Sd/-

A. MUHAMED MUSTAQUE

JUDGE

Sd/-

P. KRISHNA KUMAR

JUDGE

SV

APPENDIX OF OP(KAT) 130/2021

PETITIONER'S ANNEXURES

- Annexure A1 A TRUE COPY OF GO(P) NO 216/08/LSGD DATED 30.7.2008 ISSUED BY THE FIRST RESPONDENT
- Annexure A2 A TRUE COPY OF COMMUNICATION NO 50865/ERB1/07/LSGD DATED 26.9.2009 ISSUED BY THE GOVERNMENT OF KERALA
- Annexure A3 A TRUE COPY OF ORDER NO 20575/EST/B2/12/CRD(1) DATED 19.10.2013 ISSUED BY THE SECOND RESPONDENT ALONG WITH THE RELEVANT PAGES OF INTEGRATED PROVISIONAL SENIORITY LIST OF EXTENSION OFFICERS PUBLISHED BY R2
- Annexure A4 A TRUE COPY OF OBJECTION DATED 1.11.2013 SUBMITTED BY THE FIRST PETITIONER BEFORE R2
- Annexure A5 A TRUE COPY OF OBJECTION DATED 30.10.2013 SUBMITTED BY THE SECOND BEFORE R2
- Annexure A6 A TRUE COPY OF OBJECTION DATED 1.11.2013 SUBMITTED BY THE THIRD RESPONDENT (THIRD APPLICATION IN OA) BEFORE THE SECOND RESPONDENT
- Annexure A7 A TRUE COPY OF ORDER NO 20575/EST B2/12/CRD DATED 5.5.2014 ALONG THE RELEVANT PAGES OF FINAL INTEGRATED SENIORITY LIST PUBLISHED BY THE 2ND RESPONDENT
- Annexure A8 A TRUE COPY OF APPEAL DATED 4.6.2014 SUBMITTED BY THE PETITIONERS BEFORE R1 AGAINST ANNEXURE-A7
- Annexure A9 A TRUE COPY OF APPEAL DATED 30.5.2014 SUBMITTED BY THE THIRD RESPONDENT (THIRD APPLICANT IN OA) BEFORE R1 AGAINST ANNEXURE A7



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- Annexure A10** **A TRUE COPY OF ORDER DATED 27.11.2014 IN
OA NO 1682 OF 2014 ON THE FILE OF THE
KERALA ADMINISTRATIVE TRIBUNAL
THIRUVANANTHAPURAM ADDITIONAL BENCH AT
ERNAKULAM**
- Annexure A11** **A TRUE COPY OF GO (RT) NO 3099/2015/LSGD
DATED 9.10.2015 ISSUED BY R1**
- Exhibit P1** **TRUE COPY OF ORDER DATED 24.2.2021 IN OA
NO 2212 OF 2015 ON THE FILE OF THE KERALA
ADMINISTRATE TRIBUNAL
THIRUVANANTHAPURAM(ERNAKULAM BENCH)**
- Exhibit P2** **TRUE COPY OF ORIGINAL APPLICATION (EKM)
NO 2212 OF 2015 FILED BY THE PETITIONER
AND THE 3RD RESPONDENT ON THE FILE OF THE
KERALA ADMINISTRATIVE TRIBUNAL
THIRUVANANTHAPURAM ADDITIONAL BENCH AT
ERNAKULAM**
- Exhibit P3** **TRUE COPY REPLY STATEMENT FILED BY THE
FIRST RESPONDENT IN OA NO 2212 OF 2015 ON
THE FILE OF THE KERALA ADMINISTRATIVE
TRIBUNAL THIRUVANANTHAPURAM ADDITIONAL
BENCH AT ERNAKULAM**
- Exhibit P4** **TRUE COPY OF REJOINDER TO THE REPLY
STATEMENT FILED BY R1 IN OA NO 2212 OF
2015 ON THE FILE OF THE KERALA
ADMINISTRATIVE TRIBUNAL,
THIRUVANANTHAPURAM ADDITIONAL BENCH AT
ERNAKULAM**