

**JayakrishnA.V. Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1094542](http://sooperkanoon.com/1094542)

**Court :** Kerala

**Decided On :** Oct-01-2013

**Judge :** Honourable Mr.Justice Thottathil B.Radhakrishnan

**Appellant :** JayakrishnA.V.

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE  
HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE  
HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH TUESDAY,THE1T  
DAY OF OCTOBER20139TH ASWINA, 1935 OP(KAT).No. 2960 of 2013 (Z)  
----- OA.NO.1569/2013 OF KERALA ADMINISTRATIVE  
TRIBUNAL,THIRUVANANTHAPURAM -----  
PETITIONER/PETITIONER IN THE O.A.:  
----- JAYAKRISHNA.V., DEPUTY  
CONSERVATOR OF FOREST (N.C.) OFFICE OF THE ADDITIONAL PRINCIPAL  
CHIEF CONSERVATOR OF FOREST (IHRD), FORESTRY TRAINING  
COMPLEX, PTP NAGAR, THIRUVANANTHAPUAM-13. PH:8547160879. BY  
DR.K.P.KYLASANATHA PILLAY,SENIOR ADVOCATE ADV. SMT.SREEDEVI  
KYLASANATH SRI.ACHUTH KYLAS RESPONDENTS/RESPONDENTS:  
----- 1. STATE OF KERALA,REPRSENTED BY  
THE PRINCIPAL SECRETARY TO GOVERNMENT, FOREST AND WILD LIFE  
DEPARTMENT, GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695

001.

2. THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS  
(ADMINISTRATION), FOREST HEADQUARTERS,  
VAZHUTHACAUD, THIRUVANANTHAPURAM-695 014 3. JOSEPH  
THOMAS, DEPUTY CONSERVATOR OF FOREST, OFFICE OF THE  
ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS  
(PROTECTION) FOREST HEADQUARTERS, VAZHUTHACAUD,  
THIRUVANANTHAPURAM-695 014. R1 & R2 BY SR GOVERNMENT PLEADER  
SRI.P.M.JOSEPH BY SPL.GOV. PLEADER(FORESTS)  
SRI.M.P.MADHAVANKUTTY THIS OP KERALA ADMINISTRATIVE TRIBUNAL  
HAVING COME UP FOR ADMISSION ON 01/10/2013, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING: sts OP(KAT).No. 2960 of 2013 (Z)  
----- APPENDIX PETITIONER(S)' EXHIBITS  
----- EXHIBIT P1: TRUE COPY OF THE

ORDER

DATED 15/7/2013 OF THE KERALA ADMINISTRATIVE TRIBUNAL IN  
O.A.1569/13. EXHIBIT P2: TRUE COPY OF THE ORIGINAL APPLICATION  
NO.1569/2013 ALONG WITH DOCUMENTS. RESPONDENT(S)' EXHIBITS: NIL  
/TRUE COPY/ P.A.TO.JUDGE sts THOTTATHIL B.RADHAKRISHNAN & BABU  
MATHEW P.JOSEPH, JJ.

..... OP(KAT) No.2960 of 2013  
..... Dated this the 1st day of October,  
2013.

## JUDGMENT

**Thottathil B.Radhakrishnan, J.**

1.The issues raised by the petitioner in his original application before the Kerala Administrative Tribunal have been decided relying on the Division Bench decision of this Court in Vijayakumar v. State of Kerala [2004(1) KLT299 as affirmed by the Full Bench in W.A.No.2777 of 2002. The learned senior counsel appearing for the

petitioner pointed out that if the reference order of the Division Bench, which led to the aforementioned Full Bench decision, is again looked into, it can be seen that there are certain factual issues, which did not gain attention of the Full Bench in W.A.No.2777 of 2002, and this would, in turn, lead to a probable conclusion that Vijayakumar's case (supra) was erroneously decided by the Division Bench. He, therefore, says that this matter could be considered to be placed again before the Full Bench. OP(KAT) No.2960/13 -2- 2.While it may be true that the Full Bench had, at a later point of time, refused to condone the delay and to entertain an application for review of the judgment that it had rendered in W.A.No.2777 of 2002 and the petitioner had failed before Their Lordships of the Apex Court in his request seeking condonation of delay to challenge the decision in the earlier round, the fact of the matter remains that the Tribunal cannot be criticized of having failed to act in terms of the provisions of the Administrative Tribunals Act when it said that the parties stand bound by the inter partes judgment rendered by the Full Bench and the Division Bench of this Court, as noted above, in the matters filed by the petitioner himself. In this view of the matter and the reasoning given by the Full Bench in W.A.No.2777 of 2002 to affirm the ratio in Vijayakumar's case (supra), we do not find our way to overcome the effect of the Full Bench decision rendered in that case and to make yet another order of reference to Full Bench. Adverting to OP(KAT) No.2960/13 -3- paragraph No.6 onwards, of the judgment delivered by the Full Bench in W.A.No.2777 of 2002, it can be seen that the Bench had again scrutinised the basic facts and the assimilation of the relevant aspects by the Division Bench in Vijayakumar's case (supra). When the Full Bench had undertaken such an exercise by reconsidering the contents of Vijayakumar's case (supra), judicial discipline dissuades us from making any attempt to revisit the issue, which stands settled in Vijayakumar's case (supra) right from 30.09.2003, the date on which the Division Bench rendered that judgment. In the light of the conclusiveness on the issues obtained by the effect of the Vijayakumar's case (supra) and the decision of the Full Bench in W.A.No.2777 of 2002, the petitioner is precluded from urging a subsequent event, even in this Court. 3.For the aforesaid reasons, without expressing anything on the other aspects of the case, we are of the view that the petitioner is not entitled to have this matter entertained by this Court in OP(KAT) No.2960/13 -4- exercise of authority under Article 226 or

227 of the Constitution of India, as against the decision of the Kerala Administrative Tribunal. This original petition, therefore, fails. In the result, this original petition is dismissed in limine. (THOTTATHIL B.RADHAKRISHNAN, JUDGE) (BABU MATHEW P. JOSEPH, JUDGE) jg

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