

**Aji V Dev Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1119543](http://sooperkanoon.com/1119543)

**Court :** Kerala

**Decided On :** Jan-20-2014

**Judge :** Honourable Mr.Justice C.T.Ravikumar

**Appellant :** Aji V Dev

**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 P.UBAID MONDAY, THE 20TH DAY OF JANUARY 2014 30TH POUSHA, 1935 OP(KAT).No. 2444 of 2013 (Z) ----- AGAINST THE

ORDER

IN OA5382013 of KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM, DATED 16.05.2013 PETITIONER : - ----- AJI V DEV, ADVOCATE, AMRITHABINDU, MILLENNIUM NAGAR, ATHIRAMPUZHA P.O., KOTTAYAM-686562 (PARTY IN PERSON) BY ADV. AJI V DEV (PARTY IN PERSON) RESPONDENTS : - ----- 1.STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001. 2.THE ACCOUNTANT GENERAL (A & E), KERALA, THIRUVANANTHAPURAM-695039. R1 BY Spl. GOVERNMENT PLEADER Sri. SUNIL CYRIAC THIS OP

KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY HEARD ON 2001-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(KAT).No. 2444 of 2013 (Z) ----- APPENDIX PETITIONER'S EXHIBITS : ----- EXHIBIT P1: COPY OF THE O.A.NO.538/2013 FILED BEFORE THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL. EXHIBIT P2: COPY OF THE TRIBUNAL

## ORDER

DATED 16.05.2013 IN OA NO.538/2013. Exhibit P3 : COPY OF THE G.O.(P) No.517/09/Fin DATED 19.11.2009. RESPONDENTS' EXHIBITS : ----- Exhibit R1(a) : COPY OF G.O.(Ms)No.25/87/LAD DATED 03.02.1987. // TRUE COPY // P.A. TO JUDGE DMR/- THOTTATHIL B. RADHAKRISHNAN & P. UBAID, JJ.

----- O.P. (KAT) No. 2444 of 2013  
----- Dated this the 20th day of January, 2014.

## JUDGMENT

**Thottathil B. Radhakrishnan, J.**

1.We have heard the petitioner in person and the learned Special Government Pleader for the Department of Finance. 2.While serving as Assistant Grade-II in the Mahatma Gandhi University, petitioner joined State Government Service. He took voluntary retirement from Government Service with effect from 01.02.2012 while working as Assistant Commissioner of Commercial Taxes. He challenges the absence of a provision for service weightage on the basis of prior university service in the 2009 pay revision. He represented to the Government. The Government were not inclined to grant an order for counting the prior university service for the purpose of service weightage. He challenged it before the Kerala Administrative Tribunal pleading that for aided schools and aided colleges and Local Self Government Institutions, prior service is reckoned for purpose of weightage when transit of employees happens from such institutions to Government service or vice versa. He also pointed out that High Court employees are also O.P. (KAT) No. 2444/13 2 entitled to such counting of prior service for the

purpose of weightage. The Tribunal held that within the framework of Articles 14 and 16 of the Constitution, there was no unequal treatment among equals and therefore, there is no hostile discrimination. The petitioner points out that there is absolutely no foundation for the Government to have denied such privilege to persons like him who have to their credit prior university service, when such benefit is given to those who have worked in aided institutions under the Universities. We may recall that service in aided schools or aided colleges are essentially services where payment is made by the Government under the Direct Payment Scheme. After the amendment of the Constitution, the L.S.G. Institutions are also brought under the canopy, having regard to the nature of the fund flow. The High Court had decided to extend the benefit of prior university service for the purpose of weightage to its employees. These are not necessarily indicative of any general principle of law that prior service in all situations could be reckoned for the purpose of weightage unless the employer/establishment concerned sanctions such a relief. The argument of the petitioner, taken to its logical end, would O.P. (KAT) No. 2444/13 3 amount to saying that such benefit will have to be extended to those persons who come from different PSUs or even other establishments into the Government Service. That is impermissible. This is different from the authorisation to reckon such length of service for the purpose of determining pension. The fact that the prior employer has to make rateable contribution to the pension component is also not indicative of any such situation as regards service weightage. On the whole, we cannot find our way to upset the finding of the learned Tribunal that there is no hostile discrimination of the petitioner warranting interference with the decision of the Government in that regard. For these reasons, this original petition fails. In the result, this Original Petition is dismissed. No costs. THOTTATHIL B. RADHAKRISHNAN JUDGE P. UBAID JUDGE DMR/-