

State of Kerala vs Jayesh K

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Court : Kerala Orders

Decided On : Feb-20-2023

Judge : Honourable Mr.Justice S.V.Bhatti,Honourable Mr.Justice Basant Balaji

Appeal No. : OP(KAT)/69/2023

Appellant : State of Kerala

Respondent : Jayesh K

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 20TH DAY OF FEBRUARY 2023 / 1ST PHALGUNA, 1944 OP(KAT) NO. 69 OF 2023 AGAINST THE ORDER IN OA (EKM) 1459/2022 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM PETITIONER/S: 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, GENERAL ADMINISTRATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001 2 THE SECRETARY, PERSONNEL AND ADMINISTRATIVE REFORMS, DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001, PIN - 695001 BY SENIOR GOVERNMENT PLEADER SRI ANTONY

MUKKATH RESPONDENT/S: 1 JAYESH K AGED 44 YEARS, S/O E.P KRISHNAN, STATE TAX OFFICER (REVENUE RECOVERY), OFFICE OF THE DEPUTY COMMISSIONER OF STATE TAX, CIVIL STATION, KAKKANAD, ERNAKULAM DISTRICT - RESIDING AT KAMALESH NILAYAM, NUTSTREET P.O, VADAKARA, KOZHIKODE -2- DISTRICT - , PIN - 673104 2 THE KERALA PUBLIC SERVICE COMMISSION REPRESENTED BY ITS SECRETARY, PATTOM P.O, THIRUVANANTHAPURAM, PIN - 695004 BY ADV ELVIN PETER P.J. OTHER PRESENT: GP ANTONY MUKKATH SC P.C. SASIDHARAN THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR ADMISSION ON 20.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

JUDGMENT

S.V. Bhatti, J.

Respondents 1 and 2 in O.A.(EKM) No.1459/2022 are the

petitioners. The Original Petition is filed against the order

dated 30.09.2022. The operative portion of the order reads as follows:

In the said circumstances, as the ranked list is expiring on 07.10.2022, we deem it appropriate to direct the 1st respondent to report 54 vacancies (i.e., 28 vacancies under Rule 4; 5 vacancies of Deputy Collector under Rule 18(a) and 10 vacancies of District Education Officer and 11 vacancies of Administrative Officer Grade II) to the Public Service Commission purely on provisional basis. The same shall reach the Office of the Public Service Commission before 5.00 pm on 06.10.2022. It is made clear that the Public Service Commission shall not make any appointment as against those vacancies.

2. The Tribunal, in paragraph 2 of the Order of even

date, referred to paragraphs 8 and 9, relied on by the applicant -4- before the Tribunal and has made the order dated 30.09.2022. The applicant filed C.P.(EKM) No.158/2022, complaining disobedience of the order dated 30.09.2022. It is a matter of record that the personal appearance of the respondent/contemnor was dispensed with. On 27.01.2023, the

order dispensing with the presence of the

respondent/contemnor was recalled. The above order hastened the Department to move the present Original Petition.

3. Senior Government Pleader Sri Antony Mukkath

argues that, in the first place, the Tribunal ought not to have granted the interim order. There are valid reasons for not complying with the order dated 30.09.2022. At any rate, the Government Pleader contends that the respondents before the Tribunal have a very reasonable reply and may be permitted to file a reply and contest the matter. -5-

4. We are adverting to these contentions to complete

the narrative, but, in the peculiar circumstances of this case, we are of the view that the petitioners ought to have moved the Tribunal instead of approaching this Court. The petitioners are given the liberty to move the Tribunal after completing the pleadings, the Tribunal examines the request, and an early hearing date is accommodated in the main case or the application filed for vacating the interim order. O.P. (KAT) is dismissed with the above observation. Sd/- S.V.BHATTI JUDGE Sd/- BASANT BALAJI JUDGE jjj -6- APPENDIX OF OP(KAT) 69/2023 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE G.O.(P) NO. 12/2017/ P&ARD DATED 29.12.2017 ISSUED BY THE FIRST RESPONDENT Annexure A2 TRUE COPY OF THE DETAILS OF POSTS FOR KERALA ADMINISTRATIVE SERVICE ALONG WITH A TYPED COPY Annexure A3 TRUE COPY OF THE GOVERNMENT ORDER G.O.(P) NO. RESPONDENT Annexure A4 TRUE COPY OF THE GOVERNMENT ORDER G.O.(P) NO. RESPONDENT AND PUBLISHED IN THE GAZETTE DATED 11.07.2019 Annexure A5 TRUE

COPY OF THE APPLICATION DATED 07.02.2022

STATE PUBLIC INFORMATION OFFICER, DIRECTORATE OF WOMEN & CHILD DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM

Annexure A6 TRUE COPY OF THE APPLICATION DATED 07.02.2022 STATE PUBLIC INFORMATION OFFICER, LABOUR COMMISSIONERATE, THIRUVANANTHAPURAM Annexure A7 TRUE COPY OF THE APPLICATION DATED 07.02.2022 STATE PUBLIC INFORMATION OFFICER, DIRECTORATE OF INDUSTRIES & COMMERCE, THIRUVANANTHAPURAM Annexure A8 TRUE COPY OF THE APPLICATION DATED 07.02.2022 STATE PUBLIC INFORMATION OFFICER, DIRECTOR OF STATE LOTTERIES, THIRUVANANTHAPURAM -7- Annexure A9 TRUE COPY OF THE APPLICATION DATED 07/02/2022 STATE PUBLIC INFORMATION OFFICER, DIRECTORATE OF GENERAL EDUCATION, THIRUVANANTHAPURAM Annexure A10 TRUE COPY OF THE APPLICATION DATED 07.02./2022 STATE PUBLIC INFORMATION OFFICER, DIRECTOR OF SC DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM Annexure A11 TRUE COPY OF THE REPLY NO. WCD/E9-2662/2022 DATED

08.03.2022 ISSUED BY THE PUBLIC INFORMATION OFFICER, DIRECTORATE OF WOMEN & CHILD DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM TO SRI. ASWIN KUMAR M.J.

Annexure A12 TRUE COPY OF THE REPLY NO. E(4) 2263/2022 DATED 02.03.2022 ISSUED BY THE PUBLIC INFORMATION OFFICER, LABOUR COMMISSIONERATE, THIRUVANANTHAPURAM TO SRI. ASWIN KUMAR Annexure A13 TRUE COPY OF THE REPLY NO.DIC/728/2022-RTI DATED 08.03.2022 ISSUED BY THE PUBLIC INFORMATION OFFICER, DIRECTORATE OF INDUSTRIES & COMMERCE, THIRUVANANTHAPURAM TO SRI. ASWIN KUMAR

Annexure A14 TRUE COPY OF THE REPLY DATED 11.03.2022 GIVEN BY THE PUBLIC INFORMATION OFFICER, STATE LOTTERIES DIRECTORATE TO SRI. ASWIN KUMAR Annexure A15 TRUE COPY OF THE REPLY NO.

D1/401276/2022/DGE DATED 05.03.2022 GIVEN BY THE PUBLIC INFORMATION OFFICER, DIRECTORATE OF GENERAL EDUCATION Annexure A16 TRUE COPY OF THE REPLY NO. SCDD/984/2022/A1 GIVEN BY THE PUBLIC INFORMATION OFFICER, SC DEVELOPMENT DEPARTMENT Annexure A17 TRUE COPY OF THE STATEMENT MADE BY THE APPLICANT SHOWING THE LIST OF SECOND-GAZETTED -8- POSTS IN DIFFERENT DEPARTMENTS Annexure A18 TRUE COPY OF THE GOVERNMENT ORDER G.O.(RT) NO. RESPONDENT Annexure A19 TRUE COPY OF THE GOVERNMENT ORDER G.O.(RT) NO. RESPONDENT Annexure A20 TRUE COPY OF THE NOTIFICATION (CATEGORY NO. INVITING APPLICATIONS FOR THE POST OF KAS OFFICER (JUNIOR TIME SCALE) Annexure A21 TRUE COPY OF THE RANKED LIST PUBLISHED BY THE 3RD RESPONDENT FOR CATEGORY NO. 188/2019 Annexure A22 TRUE COPY OF THE NOTIFICATION ISSUED BY THE 3RD RESPONDENT IN THE GAZETTE DATED 29.05.2022 Annexure A23 KERALA PUBLIC SERVICE COMMISSION NOTIFICATION NO.GR IIB2/50007/2018/KPSC DATED 09.01.2020 Exhibit P1 A TRUE COPY OF THE ORIGINAL APPLICATION NO. Exhibit P2 A TRUE COPY OF THE ABOVE INTERIM ORDER DATED 30.09.2022 IN OA (EKM) NO.1459/2022 Exhibit P3 A TRUE COPY OF THE ABOVE ORDER DATED 20.10.2022 IN C.P.(C) NO. 158/2022 Exhibi P4 A TRUE COPY OF THE ABOVE ORDER DATED 27.01.2023 IN C.P.(C) NO. 158/2022

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