



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDHAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 23RD DAY OF JUNE 2026 / 2ND ASHADHA, 1948

O.P. (KAT)NO.194 OF 2026

AGAINST THE ORDER DATED 18.06.2026 IN OA NO.950 OF 2026 OF KERALA
ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER/1ST RESPONDENT IN O.A.:

STATE OF KERALA
REPRESENTED BY SECRETARY, DEPARTMENT OF HEALTH & AMP;
FAMILY WELFARE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001

BY SRI. P.A. MOHAMMED SHAH, ADDL. ADV. GENERAL

RESPONDENTS/APPLICANT & 2ND RESPONDENT IN O.A.:

- 1 DR. REENA K.J.
AGED 59 YEARS
WORKING AS DIRECTOR OF HEALTH SERVICES, HEALTH &
FAMILY WELFARE DEPARTMENT, DIRECTORATE OF HEALTH
SERVICES, THIRUVANANTHAPURAM, PIN - 695035 (UNDER
ORDERS OF TRANSFER AS THE DIRECTOR, REGIONAL PUBLIC
HEALTH LABORATORY, ERNAKULAM, PIN - 682035, RESIDING
AT PUTHUKULANGARA HOUSE, KUTTUR P.O., THRISSUR,
KERALA, PIN - 680013
- 2 DR. MEENAKSHY V.
ADDITIONAL DIRECTOR OF HEALTH SERVICES (FAMILY
WELFARE), DIRECTORATE OF HEALTH SERVICES,
THIRUVANANTHAPURAM,
KERALA, PIN - 695035

ADV. SRI. S.P. ARAVINDAKSHAN PILLAI FOR R1

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 22.06.2026, THE COURT ON 23.06.2026 DELIVERED THE
FOLLOWING:

**"C.R"****JUDGMENT****Anil K. Narendran, J.**

The 1st respondent State in O.A.No.950 of 2026, on the file of the Kerala Administrative Tribunal, Thiruvananthapuram, is the petitioner in this original petition, which is one filed invoking the supervisory jurisdiction under Article 227 of the Constitution of India, seeking an order to set aside Ext.P5 interim order dated 18.06.2026 of the Tribunal in that original application, which is one filed by the 1st respondent herein-applicant, who was holding the post of the Director of Health Services in the Health Services Department, Kerala, invoking the provisions under Section 19 of the Administrative Tribunals Act, 1985, to set aside Annexure A4 order issued by the 1st respondent State, i.e., G.O.(Rt.)No.2000/2026/H&FWD dated 12.06.2026, whereby the applicant is transferred and posted as the Director, Regional Public Health Laboratory, Ernakulam, by temporarily upgrading the post of Senior Consultant in Regional Public Health Laboratory, Ernakulam, to the level equivalent to that of the Director of Health Services, and entrusting with the 2nd respondent, who was holding the post of Additional Director of Health Services (Family Welfare), Directorate of Health Services, the full additional charge of the



post of the Director of Health Services, pending regular arrangements. The applicant has also sought for a declaration that she is entitled to continue as the Director of Health Services; and an order directing the 1st respondent State to retain her as the Director of Health Services, as if Annexure A4 order was never issued.

2. In O.A.No.950 of 2026, the document marked as Annexure A1 is a copy of the order issued by the 1st respondent State, i.e., G.O.(Ms.)No.53/2023/H&FWD dated 23.02.2023, whereby the applicant was appointed as the Director of Health Services, for two years, in the scale of pay of Rs.129300-166800, with immediate effect, from the panel of Additional Directors submitted by a Committee comprising of the Additional Chief Secretary (P&ARD), the Law Secretary and the Director, Medical Education Department, as its Members, and the Principal Secretary, Health and Family Welfare Department, as its Convenor. Thereafter, by Annexure A2 order issued by the 1st respondent State, i.e., G.O.(Ms.)No.271/2025/H&FWD dated 20.08.2025, the term of appointment of the applicant in the post of Director of Health Services, which expired on 22.02.2025, was extended for a period of one year.



3. In O.A.No.950 of 2026, the document marked as Annexure A3 is a copy of an application dated 12.06.2026, stated to have been made by the applicant before the Additional Chief Secretary to the Government, Health and Family Welfare Department, to avail 2½ days casual leave on 12th AN, 15th and 16th June, 2026, in view of health issues and family affairs. On 12.06.2026, the 1st respondent State issued Annexure A4 order dated 12.06.2026, which is under challenge in the original application, whereby the applicant has been transferred from the post of the Director of Health Services to the post of the Director, Regional Public Health Laboratory, Ernakulam, by temporarily upgrading the post of Senior Consultant in that Regional Public Health Laboratory to the level equivalent to the Director of Health Services. By that order, in the place of the applicant, the 2nd respondent, who was working as the Additional Director of Health Services (Family Welfare), Directorate of Health Services, is entrusted with the full additional charge of the post of the Director of Health Services, pending regular arrangements. In the said order, it is stated that the applicant had completed three years in the post of the Director of Health Services, and the selection process for the appointment of a regular Director of Health



Services is under consideration of the Government, and that the applicant had availed 15 days of leave during the epidemic period.

4. In O.A.No.950 of 2026, it is contended by the applicant that the Kerala Health Services (Medical Officers) Special Rules, 2010 (for brevity, 'the Special Rules'), provide for three cadres in the Health Services Department, i.e., 'Administrative Cadre', 'General Cadre' and 'Speciality Cadre'. As per Rule 5 of the Special Rules, the officers are required to exercise a one-time option indicating the cadre to which they intend to serve. Rule 6 provides that such an option, once exercised, shall be final. In the original application, the applicant's case is that she had already exercised the option by opting for the Administrative Cadre and has been continuing in that Cadre.

5. In O.A.No.950 of 2026, it is contended by the applicant that the Director of Health Services is the highest post in the Administrative Cadre of the Health Services Department. The hierarchy in the Administrative Cadre is Deputy Director, Additional Director and, thereafter, Director of Health Services. On the other hand, the post of the Director, Regional Public Health Laboratory, Ernakulam, is a post born in the Speciality Cadre, which is equivalent to that of the Deputy Director. Therefore,



Annexure A4 order has the effect of removing the applicant from the highest post in the Administrative Cadre and posting her in a post equivalent to that of the Deputy Director in the Speciality Cadre. The action of the 1st respondent State in that regard is contrary to Rule 6 of the Special Rules. Any upgradation of the post of Senior Consultant in the Regional Public Health Laboratory, Ernakulam, to that of the Director of Health Service, for the purpose of accommodating the applicant, is an exercise wholly unheard of, and any such upgradation requires the concurrence of the Finance Department and the issuance of an appropriate Government order.

6. In O.A.No.950 of 2026, it is alleged by the applicant that the circumstances surrounding the issuance of Annexure A4 order would demonstrate that the said order is vitiated by mala fides. The applicant sought only 2½ days of casual leave on account of illness. Even after availing leave, she continued to discharge her official functions. Despite the same, in Annexure A4 order, it is falsely stated that she had sought 15 days leave during the epidemic situation. The sequence of events clearly indicates that the decision to remove the applicant from the post of the Director of Health Services was already taken and publicised, even



before the order was served on her. Therefore, Annexure A4 is vitiated by mala fides, extraneous and irrelevant considerations. It is the result of a colourable exercise of power, and the said order has been issued in a highly arbitrary and unreasonable manner.

7. In O.A.No.950 of 2026, it is stated that the applicant is due to retire from service, on superannuation, on 30.04.2027. She has less than 10 months to retire from service. The Special Rules do not prescribe any fixed tenure for the post of the Director of Health Services. Even assuming, without admitting, that her appointment was subject to a fixed tenure, the same stood extended for a further period of one year, as per Annexure A2. Further, a reading of Annexure A4 order would show that the process for a regular selection to the post of the Director of Health Services is only under consideration. In such circumstances, there was no necessity whatsoever to remove her from that post, in a hasty manner, without even initiating a fresh selection process.

8. On 15.06.2026, when O.A.No.950 of 2026 came up for admission, the matter was admitted on file. The learned Government Pleader took notice for the 1st respondent State. Notice was ordered to the 2nd respondent by speed post, returnable within two weeks. As per Ext.P4 'case status' of



O.A.No.950 of 2026, the said original application filed on 15.06.2026 came up for admission on 15.06.2026 itself. In the daily proceedings, the Tribunal noted the submissions made by the learned counsel for the applicant and the learned Special Government Pleader for the 1st respondent State. The Tribunal directed the 1st respondent State to file a statement in the light of the contentions raised by the applicant, and posted the matter to 18.06.2026.

9. On 18.06.2026, Ext.P2 reply statement was filed in O.A.No.950 of 2026, by the 1st respondent State, producing therewith Annexure R1(a) order issued by the State, i.e., G.O.(Rt.) No.2009/2026/H&FWD dated 15.06.2026, wherein it is stated that the applicant had completed three years' tenure in the post of the Director of Health Services, and the selection process for the appointment of a regular Director is presently under consideration at the Government level. Considering the prevailing public health situation in the State, particularly, the ongoing surveillance and response activities relating to 'Shigella' and 'Nipah' outbreaks, and taking into account the administrative exigencies of the Government and the Health Services Department, the post of Director of Health Services cannot be left vacant until regular



appointments are made. In the above circumstances, taking into consideration the administrative convenience, the applicant, the former Director of Health Services, has already been transferred as per the Government order dated 12.06.2026 (Annexure A4). Consequently, the 2nd respondent, who is the Additional Director of Health Services (Family Welfare), has been entrusted with the full additional charge of the Director of Health Services, pending regular arrangements. By Annexure R1(a) order dated 15.06.2026, the last sentence of Annexure A4 order dated 12.06.2026 stands modified by omitting the sentence in that order, i.e., "Dr. Reena K.J, the Director of Health Services, had availed 15 days of leave during the epidemic period."

10. In Ext.P2 reply statement filed in O.A.No.950 of 2026, the 1st respondent State has stated that the applicant is not entitled to the interim relief sought for, since the 2nd respondent took charge as directed in Annexure A4 order on 13.06.2026. The transfer of the applicant by Annexure A4 order, and her posting as the Director, Regional Public Laboratory, Ernakulam, is in effect near to her home station, i.e., Thrissur. The one-time option mentioned in Rule 5 of the Special Rules, with regard to the option to be exercised by the officers, cannot have the meaning that the



Government, in public interest, cannot transfer a person after protecting his pay and status. In the case of the applicant, she has been posted as the Director, Regional Public Health Laboratory, Ernakulam, after upgrading the post of Senior Consultant, and her pay has been protected. The Special Rules do not prescribe any period for the appointment of the Director of Health Services. The applicant, with open eyes, accepted Annexure A1 order of appointment, which was for a period of two years. The further extension, vide Annexure A2 order, was for a period of one year. If the applicant's contentions are accepted, there will be a break in service from 22.02.2025 to 20.08.2025, which is impermissible. The period of one year in Annexure A2 order expired on 22.02.2026, and no further extension has been granted. That apart, the date of Annexure A2 order, i.e., 20.08.2025, is relied on by the applicant to contend that her tenure is not over. The said contention is incorrect, as the extension was granted with effect from 22.02.2025, for one year. So, the applicant has no legal right to continue, as the appointment was a tenure posting. The applicant did not object to such a tenure posting. She has already completed her tenure in the post of the Director of Health Services, and the present action of the 1st respondent State is



purely in the public interest.

11. In Ext.P2 reply statement in O.A.No.950 of 2026, the 1st respondent State has stated that the appointment of the Heads of Department is governed by Rule 28A, Part II Kerala State and Subordinate Service Rules (KS&SSR). Further, Rule 37 Part II KS&SSR empowers the Government to appoint even an officiating or permanent officer of an All India Service to any State service or class or category thereof, notwithstanding anything contained in the general rules or special rules. Merely because a qualified, competent and eligible person is available in the State service, the Government is not bound to promote and appoint that person as the head of service, as per the special rules, if he is not suitable for the post. In service parlance, suitability is not merely qualification, competence and eligibility. It necessarily partakes an element of desirability in a larger public interest. Therefore, the action of the 1st respondent State, as per Annexure A4 and Annexure R1(a) orders, is clearly in public interest, and the applicant cannot contend that or dictate to the Government that it does not have the authority or power to issue an order in the nature of Annexure A4.

12. On 18.06.2026, the applicant filed M.A.No.1083 of



2026, to amend O.A.No.950 of 2026, by incorporating additional statement of facts, additional ground, additional relief and interim relief, as stated in the last paragraph of that miscellaneous application. Those amendments are intended to raise a challenge against Annexure R1(a) Government order dated 15.06.2026, a copy of which is marked as Annexure A5. Along with the application for amendment, the applicant has also produced a Government order, i.e., G.O.(Ms.)No.485/2024/ H&FWD dated 17.02.2024, whereby the probation of the applicant in the post of the Director of Health Services was declared to have been satisfactorily completed, with effect from 25.08.2023.

13. The Tribunal, by the order dated 18.06.2026, allowed M.A.No.1083 of 2026 in O.A.No.950 of 2026. A copy of that order is made available for the perusal of this Court by the learned counsel for the 1st respondent-applicant. By Ext.P5 order dated 18.06.2026 in O.A.No.950 of 2026, the Tribunal granted an interim order staying the implementation of all proceedings pursuant to Annexure A4, as modified in Annexure A5. By that order, it was ordered that Annexure A4 order, as modified in Annexure A5, shall not be implemented for a period of two weeks. It was ordered further that the applicant shall be allowed to continue as the

Director of Health Services.

14. Ext.P5 interim order of the Tribunal in O.A.No.950 of 2026 is under challenge in this original petition filed by the 1st respondent State, invoking the supervisory jurisdiction under Article 227 of the Constitution of India. Along with this original petition, the petitioner has placed on record Ext.P6 Government order, i.e., G.O.(Ms.)No.331/2010/H&FWD dated 29.05.2010, regarding the implementation of Speciality Cadre/Administrative Cadre/General Cadre/Dental General Cadre/Public Health Lab Cadre/Clinical Lab and Blood Bank Cadre in the Health Services Department and temporary promotions and placements and also postings in various cadres; and Ext.P7 Government order. i.e., G.O.(Rt.)No.1682/2011/H&FWD dated 30.04.2011, regarding promotions/transfers and postings of Medical Officers in the Administrative Cadre.

15. On 22.06.2026, we heard the arguments of the learned Additional Advocate General for the petitioner-1st respondent State and also the learned counsel for the 1st respondent-applicant.

16. The learned Additional Advocate General for the petitioner-1st respondent State contended that Ext.P5 interim



order dated 18.06.2026 passed by the Tribunal in O.A.No.950 of 2026 is contrary to the very principles relied on by the Tribunal in that order. The learned Additional Advocate General addressed arguments on the procedure adopted by the Tribunal in dealing with M.A.No.1083 of 2026, the application for amendment, and thereafter granting Ext.P5 interim order. It is contended that, by Ext.P5 interim order, the Tribunal granted the final relief sought for in O.A.No.950 of 2026, even before adjudication of the issue raised in that original application. Even before the filing of O.A.No.950 of 2026, the 2nd respondent had taken charge as the Director of Health Services, on 13.06.2026, in terms of Annexure A4 Government order. Therefore, even before the issuance of Ext.P5 interim order by the Tribunal on 18.06.2026, Annexure A5 Government order dated 15.06.2026 has already been implemented. On the merits of the issue pending adjudication in O.A.No.950 of 2026, the learned Additional Advocate General addressed arguments with specific reference to the legal and factual contentions raised in Ext.P2 reply statement, which we have referred to hereinbefore at paragraphs 9 to 11. The learned Additional Advocate General also addressed arguments placing reliance on Exts.P6 and P7 Government orders dated 29.05.2010



and 30.04.2011, produced along with this original petition. Relying on those documents, it was contended that the 1st respondent-applicant continues in the General Cadre, and as such, it cannot be said that she had opted for the Administrative Cadre in the year 2010, under Rule 5 of the Special Rules. The learned Additional Advocate General also referred to clause (c) of Rule 2 of the Rules of Business, Government of Kerala, made in exercise of the powers under clauses (2) and (3) of Article 166 of the Constitution of India, which defines 'Secretary' to mean a Secretary to the Government of the State and includes a Special Secretary, an Additional Secretary, a Joint Secretary and a Deputy Secretary; and also the provisions under Rules 11 and 12 of the Rules of Business.

17. On the other hand, the learned counsel for the 1st respondent-applicant contended that no interference is warranted in Ext.P5 interim order dated 18.06.2026 of the Tribunal in O.A.No.950 of 2026. On the merits of the issue pending adjudication in O.A.No.950 of 2026, the learned counsel for the 1st respondent-applicant addressed arguments with specific reference to the legal and factual contentions raised in that original application, which we have referred to hereinbefore at paragraphs



2 to 7 and also paragraph 12. The learned counsel contended that the contentions raised by the petitioner-1st respondent State in this original petition regarding the procedure adopted by the Tribunal in allowing M.A.No.1083 of 2026, the application for amendment, and thereafter granting Ext.P5 interim order, are absolutely untenable and the learned counsel submitted that even the averments contained in the original petition in support of that contention, are false. Regarding the stand taken in Ext.P2 reply statement filed by the 1st respondent State that the 2nd respondent took charge as the Director of Health Services on 13.06.2026, as directed in Annexure A4 order, the submission made by the learned counsel for the 1st respondent-applicant was that 13.06.2026 is a second Saturday. In support of the contention that the applicant had opted for Administrative Cadre in the year 2010, the learned counsel made available for the perusal of this Court a copy of 'Speciality/Administrative Cadre Appeal Form', which is one dated 06.01.2010, stated to have been submitted by the applicant before the competent authority. The learned counsel also pointed out the amendments made to the Special Rules of 2010, by the Kerala Health Services (Medical Officers) Special Rules (Amendment), 2022.



18. The issue that arises for consideration in this original petition is whether any interference is warranted in the Ext.P5 interim order dated 18.06.2026 of the Tribunal in O.A.No.950 of 2026, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

19. Article 227 of the Constitution of India deals with the power of superintendence over all courts by the High Court. Under clause (1) of Article 227 of the Constitution, every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

20. In **Shalini Shyam Shetty v. Rajendra Shankar Patil [(2010) 8 SCC 329]** the Apex Court, while analysing the scope and ambit of the power of superintendence under Article 227 of the Constitution, held that the object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under Article 227 is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted to maintain public confidence in the functioning of the tribunals and courts subordinate to the High



Court.

21. In **Jai Singh v. Municipal Corporation of Delhi [(2010) 9 SCC 385]**, the Apex Court held that, undoubtedly, the High Court, under Article 227 of the Constitution, has the jurisdiction to ensure that all subordinate courts, as well as statutory or quasi-judicial tribunals, exercise the powers vested in them, within the bounds of their authority. The High Court has the power and jurisdiction to ensure that they act in accordance with the well-established principles of law. The exercise of jurisdiction must be within the well-recognised constraints. It cannot be exercised like a 'bull in a China shop', to correct all errors of the judgment of a court or tribunal, acting within the limits of its jurisdiction. This correctional jurisdiction can be exercised in cases where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice.

22. In **K.V.S. Ram v. Bangalore Metropolitan Transport Corporation [(2015) 12 SCC 39]** the Apex Court held that, in exercise of the power of superintendence under Article 227 of the Constitution of India, the High Court can interfere with the order of the court or tribunal only when there has been a patent perversity in the orders of the tribunal and



courts subordinate to it or where there has been gross and manifest failure of justice or the basic principles of natural justice have been flouted.

23. In the case at hand, the interim relief sought for in O.A.No.950 of 2026, when it was filed before the Tribunal on 15.06.2026, reads thus;

“Pending final decision on the application, the applicant seeks the issue of the following interim order;

This Hon’ble Tribunal may be pleased to stay the operation and implementation of and all proceedings pursuant to Annexure A4, so as to enable the applicant to continue as the Director of Health Services, pending disposal of the original application.” (underline supplied)

24. By the order dated 18.06.2026 in M.A.No.1083 of 2026, a copy of which is made available for the perusal of this Court by the learned counsel for the 1st respondent, the interim relief sought for in O.A.No.950 of 2026 was amended as follows;

“Pending final decision on the application, the applicant seeks the issue of the following interim order;

This Hon’ble Tribunal may be pleased to stay the operation and implementation of and all proceedings pursuant to Annexure A4, as modified by Annexure A5, so as to enable the applicant to continue as the Director of Health Services, pending disposal of the original application.”

(underline supplied)

25. In the headnote of the impugned order, i.e., Ext.P5



interim order dated 18.06.2026 in O.A.No.950 of 2026, the interim relief sought for in O.A.No.950 of 2026 is wrongly shown as the interim relief originally sought for at the time of the filing of the original application on 15.06.2026, which can only be an inadvertent mistake committed by the Registry of the Tribunal, while preparing the headnote of that interim order. It is not discernible from a reading of Ext.P5 interim order dated 18.06.2026 as to whether the Tribunal has already passed orders on M.A.No.1083 of 2026, the application for amendment, before passing the impugned order. Therefore, we do not propose to deal with the rival contentions raised at the Bar on the procedure adopted by the Tribunal in dealing with M.A.No.1083 of 2026, the application for amendment, and the pleading in that regard in the memorandum of this original petition, which is one dated 19.06.2026.

26. Section 24 of the Administrative Tribunals Act deals with 'conditions as to making of interim orders'. As per Section 24, notwithstanding anything contained in any other provisions of the said Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an



application unless (a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and (b) opportunity is given to such party to be heard in the matter. As per the proviso to Section 24, a Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

27. In the instant case, as already noticed hereinbefore, as per Ext.P4 'case status' of O.A.No.950 of 2026, the said original application filed on 15.06.2026 came up for admission on 15.06.2026 itself. On 15.06.2026, the matter was admitted on file. The learned Government Pleader took notice for the 1st respondent State. Notice was ordered to the 2nd respondent by speed post,



returnable within two weeks. In the daily proceedings, the Tribunal noted the submissions made by the learned counsel for the applicant and the learned Special Government Pleader for the 1st respondent State. The Tribunal directed the 1st respondent State to file a statement in the light of the contentions raised by the applicant and posted the matter to 18.06.2026.

28. On 18.06.2026, the 1st respondent State filed Ext.P2 reply statement in O.A.No.950 of 2026, opposing the reliefs sought for, producing therewith Annexure R1(a) order issued by the 1st respondent State, i.e., G.O.(Rt.)No.2009/2026/H&FWD dated 15.06.2026. In Ext.P2 reply statement, the 1st respondent State has stated that the applicant is not entitled to the interim relief sought for, since the 2nd respondent took charge as directed in Annexure A4 order on 13.06.2026. Paragraph 4 of Ext.P2 reply statement reads thus;

"4. It is submitted that the applicant is not entitled for the interim relief sought for since the 2nd respondent took charge as directed in Annexure A4 on 13.06.2026. Annexure A4 transfer posting her as Director, Regional Public Health Laboratory, Ernakulam, is in effect near to Thrissur her home station."

(underline supplied)

29. In Ext.P5 interim order dated 18.06.2026 in O.A.No.950 of 2026, at paragraph 6, the Tribunal noticed the



submission made by the learned Special Government Pleader that the substitute of the applicant, i.e., the 2nd respondent herein, has joined the post, on 13.06.2026. A reading of Ext.P5 interim order would not show that the said fact was disputed before the Tribunal on 18.06.2026, by the learned counsel for the applicant. Therefore, it prima facie appears that, on 18.06.2026, when the Tribunal considered the interim relief sought for in O.A.No.950 of 2026, the 2nd respondent had already taken full additional charge of the post of the Director of Health Services, with effect from 13.06.2026.

30. A reading of the interim relief sought for in O.A.No.950 of 2026, when it was filed before the Tribunal on 15.06.2026, which we have extracted hereinbefore at paragraph 23, and also the interim relief sought for in that original application, as amended by the order dated 18.06.2026 in M.A.No.1083 of 2026, which we have extracted hereinbefore at paragraph 24, would show that the interim relief sought for in O.A.No.950 of 2026, as on 18.06.2026, is stay of the operation and implementation of Annexure A4, as modified by Annexure A5, so as to enable the applicant to continue as the Director of Health Services, pending consideration of that original application. When, it prima facie



appears that, the 2nd respondent has already taken full additional charge of the post of the Director of Health Services, with effect from 13.06.2026, the Tribunal committed a grave error in granting an interim order on 18.06.2026, staying the implementation of all proceedings pursuant to Annexure A4, as modified by Annexure A5, for a period of two weeks, and allowing the applicant to continue as the Director of Health Services during that period, thereby virtually replacing the 2nd respondent who was holding additional charge of that post, with effect from 13.06.2026. Once, as it prima facie appears, Annexure A4 order has already been implemented and the 2nd respondent has taken additional charge of the post of the Director of Health Services on 13.06.2026, an order of interim stay, as sought for in O.A.No.950 of 2026, cannot undo the completed administrative act, as if it never happened. An order of interim stay sought for in an original application is not meant to reverse the consequence on account of the implementation of the order under challenge, which has already taken place, even before that original application came up for admission before the Tribunal. If the order under challenge has already been implemented, an interim stay of that order may be ineffective, and the appropriate question to be considered, in case



a proper interim relief is sought for, is whether the restoration of status quo ante is justified, on the merits of the case.

31. In the above circumstances, we find no reason to sustain Ext.P5 interim order dated 18.06.2026 of the Tribunal in O.A.No.950 of 2026.

32. It is made clear that the observations contained in this judgment touching the merits of the matter pending adjudication before the Tribunal in O.A.No.950 of 2026 are made for the limited purpose of deciding the challenge made in this original petition against Ext.P5 interim order dated 18.06.2026. In such circumstances, we find that no notice need be issued to the 2nd respondent in this proceedings.

33. Today, when this original petition is listed for pronouncing the judgment at 04.00 p.m., the learned counsel for the 1st respondent-applicant cited the decision of a learned Single Judge of this Court in **Ramavarma Thirumulpad v. State of Kerala [ILR 1985 (2) Ker 355]**, wherein it was held that when the court refers to the respondent's taking charge, it could only mean taking charge in accordance with law, and not in any manner other than in accordance with law.

34. A reading of the decision of the learned Single Judge in



Ramavarma Thirumulpad [ILR 1985 (2) Ker 355] would show that, that was a case in which the challenge in the original petition, i.e., O.P.No.176 of 1985, was against a Government order dated 03.01.1985 (Ext.P1) ordering promotions, transfers and postings of the officers in the General Education Department. The 3rd respondent, who was working as Assistant Education Officer at Mattanchery, was promoted as District Education Officer and posted at Kothamangalam. The petitioner in the original petition was transferred from Kothamangalam to Malappuram, in a leave vacancy. The Director of Public Instructions passed the consequential orders on 04.01.1985. The petitioner filed the original petition on 07.01.1985 challenging the legality of Ext.P1 order of transfer. On 07.01.1985, when that original petition came up for admission, notice was ordered. In C.M.P.No.533 of 1985, the learned Single Judge granted an interim stay, if the 3rd respondent has not so far taken charge pursuant to Ext.P1 order. On 16.01.1985, when the original petition came up for consideration, the learned Advocate General for the 1st respondent State and the learned counsel for the 3rd respondent submitted that the 3rd respondent 'assumed' charge in the absence of the petitioner on 05.01.1985 and the charge report signed by the 3rd



respondent and countersigned by the Deputy Director of Education has been sent in accordance with the instructions in the Kerala Financial Code and therefore, the order of stay has to be vacated. That submission was opposed by the learned counsel for the petitioner, who contended that 'assumption' of charge said to have been made by the 3rd respondent is not countenanced by the Rules, and it has no legal force. Therefore, the order of stay must stand and must be effectuated by giving further directions to the respondent. The judgment of the learned Single Judge, in the above factual matrix, is one rendered after taking note of the provisions under KSR Part I Appendix III and Article 81 of the Kerala Financial Code.

35. In the instant case, as already noticed hereinbefore, in Ext.P5 interim order dated 18.06.2026 in O.A.No.950 of 2026, at paragraph 6, the Tribunal noticed the submission made by the learned Special Government Pleader that the substitute of the applicant, i.e., the 2nd respondent herein, has joined the post, on 13.06.2026. A reading of Ext.P5 interim order would not show that the said fact was disputed before the Tribunal on 18.06.2026, by the learned counsel for the applicant. Therefore, as already found in this judgment at paragraph 29, it prima facie appears that, on



18.06.2026, when the Tribunal considered the interim relief sought for in O.A.No.950 of 2026, the 2nd respondent had already taken full additional charge of the post of the Director of Health Services, with effect from 13.06.2026. In such circumstances, the factual matrix in the case at hand is entirely different from that dealt with by the learned Single Judge in **Ramavarma Thirumulpad [ILR 1985 (2) Ker 355]**. In that view of the matter, we find absolutely no merits in the argument advanced by the learned counsel for the 1st respondent-applicant, placing reliance on the above decision. We make it clear that we have not expressed any opinion on the law laid down in the said decision of the learned Single Judge, since such an exercise is not warranted in the factual matrix of this original petition.

36. In the result, this original petition is allowed by setting aside Ext.P5 interim order dated 18.06.2026 of the Tribunal in O.A.No.950 of 2026.

37. The arguments advanced by the Additional Advocate General, with specific reference to the legal and factual contentions raised in Ext.P2 reply statement, which we have referred to hereinbefore at paragraphs 9 to 11, and the arguments advanced by the learned counsel for the 1st respondent-applicant,



with specific reference to the legal and factual contentions raised in the original application, which we have referred to hereinbefore at paragraphs 2 to 7 and also paragraph 12, are left open to be raised before the Tribunal at the appropriate stage.

It would also be open to the 1st respondent-applicant, if so advised, to file a fresh miscellaneous application seeking appropriate interim relief, within the ambit and scope of Section 24 of the Administrative Tribunals Act, during the pendency of O.A.No.950 of 2026.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

bkn/-

APPENDIX OF OP(KAT) NO. 194 OF 2026

PETITIONER ANNEXURES

Annexure-A1	TRUE COPY OF THE G.O. (MS) NO. 53/2023/H&FWD DATED 23.02.2023.
Annexure-A2	TRUE COPY OF THE G.O. (P) NO. 271/2025/H&FWD DATED 20.08.2025.
Annexure-A3	TRUE COPY OF THE APPLICATION DATED 12.06.2026, FOR CASUAL LEAVE, SUBMITTED BY THE APPLICANT BEFORE THE 1ST RESPONDENT.
Annexure-A4	TRUE COPY OF THE G.O. (RT) NO.2000/2026/H&FWD DATED 12.06.2026
Annexure-R1 (a)	TRUE COPY OF GO (RT) NO.2009/2026/H&FWD DATED 15.06.2026.
Annexure-A5	TRUE COPY OF THE G.O. (RT) NO. 2009/2026/H&FWD DATED 15.06.2026.
Annexure-A6	TRUE COPY OF THE G.O. (RT) NO. 485/2024/H&FWD DATED 17.02.2024.
EXHIBIT P1	TRUE OF THE O.A 950/2026 ALONG WITH ANNEXURES.
EXHIBIT P2	TRUE COPY OF THE REPLY STATEMENT OF THE 1ST RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE M.A. NO. 1083/2026 IN O.A. NO. 950/2026 FILED BY THE APPLICANT.
EXHIBIT P4	TRUE COPY OF THE INTERIM ORDER DATED 15.06.2026 AS OBTAINED FROM THE OFFICIAL WEBSITE OF THE LEARNED TRIBUNAL.
EXHIBIT P5	TRUE COPY OF THE INTERIM ORDER DATED 18.06.2026.
EXHIBIT P6	TRUE COPY OF RELEVANT EXTRACT OF GO (MS) NO. 331/2010/H&FWD DATED 29.05.2010.
EXHIBIT P7	TRUE COPY OF GO (RT) NO. 1682/11/H&FWD DATED 30.04.2011.