

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

Wednesday, the 1st day of September 2021 / 10th Bhadra, 1943
WP(C) NO. 12707 OF 2021(S)

PETITIONERS:

1. KERALA ADMINISTRATIVE TRIBUNAL ADVOCATES' ASSOCIATION,
REGISTER NO. TVM/TC/609/2014, KAT COMPLEX, VANCHIYOOR,
THIRUVANANTHAPURAM-695 035, REPRESENTED BY ITS PRESIDENT,
MR.FATHAHUDEEN M., ADVOCATE, EAST OF DISTRICT COURT,
VANCHIYOOR, THIRUVANANTHAPURAM- 695 035.
2. VAZHUTHACADU NARENDRAN ALAIS R. NARENDRAN NAIR,
AGED 70 YEARS ADVOCATE, S/O.N.K. RAMAKRISHNA PILLAI,
'SOPANAM', BEHIND TRIVANDRUM CLUB, VAZHUTHACAUD,
THIRUVANANTHAPURAM- 695 010.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL AND TRAINING, MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSIONS, 5TH FLOOR, SARDAR PATEL BHAVAN,
NORTH BLOCK, NEW DELHI -110 001.
2. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001.
3. PRINCIPAL SECRETARY, P & ARD DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.
4. KERALA ADMINISTRATIVE TRIBUNAL, REPRESENTED BY ITS REGISTRAR,
KAT COMPLEX, VANCHIYOOR, THIRUVANANTHAPURAM- 695 305.
5. BENNY GERVAIS, HON'BLE MEMBER, KERALA ADMINISTRATIVE TRIBUNAL,
KAT COMPLEX, VANCHIYOOR, THIRUVANANTHAPURAM -695 305.
6. RAJENDRAN.V, HON'BLE MEMBER,
KERALA ADMINISTRATIVE TRIBUNAL KAT COMPLEX,
VANCHIYOOR, THIRUVANANTHAPURAM- 695 305.

P.T.O.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to permit the present judicial members of the Kerala Administrative Tribunal to continue to hold their office subject to the age restriction of 65 years, pending disposal of the writ petition.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 15/07/2021 and upon hearing the arguments of M/S V.M.KRISHNAKUMAR, P.R.REENA & P.S.SIDHARTHAN, Advocates for the petitioners, SRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL for R2 & R3, and of Assistant Solicitor General of India ,the court passed the following:

P.T.O.



A. Muhamed Mustaque & Dr. Kauser Edappagath, JJ

W.P.(C). Nos. 10706 & 12707 of 2021

Dated this the 1st day of September, 2021

ORDER

A. Muhamed Mustaque, J

Read our order dated 15/7/2021. It is submitted that a Chairman has been appointed and the learned Government Pleader submits that the Chairman will assume office on Monday (6/9/2021). As per order dated 15.7.2021, we allowed the present Judicial Members to continue till the appointment of the Chairman or till replacement of them by new members, whichever is earlier. If our order is allowed to be worked out, the term of the present Judicial Members will come to an end today. We cannot allow the stalemate that is likely to arise if both judicial members are not allowed to function.

2. Rule 10 of the Administrative Tribunals (Procedure for Appointment of members) Rules, 2011, empowers the Chairman to recommend the names of the present members with justification for extension of their term of appointment to the State Government in

W.P.(C). Nos. 10706 & 12707 of 2021

2

accordance with the provisions of sub-section (2) of Section 8. It is for the Chairman to take a decision to recommend the names of the present members or not. If the Chairman takes a decision to recommend, then the State Government can take a final call in this matter.

3. In view of the fact that there is no legal embargo for the present judicial members to continue up to the age of 65, we allow them to continue for a further period of 3 weeks awaiting decision of the chairman. In the meanwhile, we expect that the Chairman, on assumption of the charge, would take appropriate decision in accordance with Rule 10. If the Chairman does not want to recommend, certainly we will not be justified in allowing the present members to continue thereafter.

Post on 17/9/2021.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

Sd/-

DR. KAUSER EDAPPAGATH, JUDGE

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