



2023/KER/49640

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MR. JUSTICE C. JAYACHANDRAN

MONDAY, THE 31ST DAY OF JULY 2023/9TH SRAVANA, 1945

OP (KAT) NO.168 OF 2022

AGAINST THE ORDER DATED 13.11.2019 IN OA 2094/2015 OF
KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONERS/RESPONDENTS IN O.A.:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001.
- 2 THE PRINCIPAL AGRICULTURAL OFFICER,
CIVIL STATION, KAKKANAD, ERNAKULAM, PIN - 682030.
- 3 THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, KALADY, PIN - 683574.
- 4 THE ASSISTANT ENGINEER,
PUBLIC WORKS DEPARTMENT SECTION,
ALUVA, PIN - 683101.

BY SRI.B.UNNIKRISHNA KAIMAL, SR.GOVERNMENT
PLEADER

RESPONDENT/APPLICANT IN O.A.:

VARGHESE M.A, S/O.ANTONY, CASUAL SWEEPER,
KRISHI BHAVAN, KALADY, ERNAKULAM, PIN-683 572,
RESIDING AT MULAVARIKKAL P.O, PIRAROOR,
THEVARMADAM, ERNAKULAM, KERALA, PIN - 683574.

BY ADVS.
SMT.ZEENA S.FERNANDEZ
SRI.M.SASINDRAN

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME
UP FOR ADMISSION ON 31.07.2023, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



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[CR]

ALEXANDER THOMAS & C.JAYACHANDRAN, JJ.

O.P. (KAT) .No.168 of 2022

Dated this the 31st day of July, 2023

JUDGMENT

C.Jayachandran, J.

The mighty arms of the State was sought to be extended against a part-time sweeper to his detriment, which impelled him to file O.A.No.2094/2015 before the Kerala Administrative Tribunal, Thiruvananthapuram, seeking sanction of one post of part-time contingent sweeper in Krishi Bhavan, Kalady, as also, to regularise his service in that post. The applicant relied upon Annexure-A2 Government Order, which permits sanctioning of the post of a part-time sweeper, if the sweeping area of the premises exceeds 100 sq.m. The Government Order also enables regularisation of



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existing casual sweepers in those offices, which satisfy the above criteria. Annexure-A2 Government Order further directed the heads of offices to assess the sweeping area and to submit proposals for sanctioning the post of part-time sweeper. Since the sweeping area of the Krishi Bhavan, Kalady - where the applicant was working as a part-time sweeper exceeds 100 sq.m. - the 3rd respondent Agricultural Officer submitted Annexure-A3 proposal for sanction of the said post. The sweeping area has been certified as 102.98 sq.m. by the 4th respondent Assistant Engineer, P.W.D, Aluva. Annexure-A3 proposal of the 3rd respondent was forwarded to the Government through the 2nd respondent Principal Agricultural Officer as per Annexure-A4 letter dated 18.1.2006. However, no orders were passed by the Government in Annexure-A3



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proposal of the 3rd respondent Agricultural Officer. In the meanwhile, the Krishi Bhavan, Kalady was shifted to a new premises on 7.10.2006 - according to the respondents - and in the year 2010 only - according to the applicant. The sweeping area of the new premises is less than 100 sq.m. The respondents in their counter affidavit would state that, since the area of the new premises is less than 100 sq.m., the post of part-time sweeper cannot be sanctioned.

2. The Tribunal took stock of the fact that, as on the date of Annexure-A2 G.O.(P)No.501/2005/Fin. dated 25.11.2005, the premises had a sweeping area of more than 100 sq.m., as certified by the 4th respondent Assistant Engineer in Annexure-A3, wherefore, the Government was bound to sanction the



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post of part-time contingent sweeper, as per the norms in Annexure-A2 G.O. It was also taken note that the applicant has been working in the said post from 19.10.2002 onwards, which entitles him to be regularised in such post. This is so, as the applicant was in service as on 25.11.2005 (date of Annexure-A2 G.O) and the sweeping area has crossed the minimum limit of 100 sq.m. as on that date. Therefore, the contentions of the respondents were rejected and the 1st respondent was directed to consider Annexure-A3 proposal and to pass orders, sanctioning the post of part-time sweeper at Krishi Bhavan, Kalady within three months from the date of receipt of the impugned order. The order also made it clear that the applicant is entitled to be regularised as part-time sweeper in the post to be sanctioned, together with all consequential



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benefits as per Annexure-A2 Government Order. The aggrieved State and its officers are the petitioners.

3. Having heard Sri.B.Unnikrishna Kaimal, learned Senior Government Pleader on behalf of the petitioners and Sri.M.Sasindran, learned counsel on behalf of the respondent, we find no reason to interfere with Ext.P3 impugned order of the Tribunal. The factual parameters considered by the Tribunal to grant relief are quite relevant, which permits of no exception to the view taken by the Tribunal. It is not in dispute that the applicant has been working as a part-time contingent sweeper in Krishi Bhavan, Kalady from 19.10.2002 onwards and that the sweeping area of the premises as on the date of Annexure-A2 G.O. dated 25.11.2005 and



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Annexure-A3 proposal dated 18.1.2006 was 102.98 sq.m., as certified by the 4th respondent Assistant Engineer. Needless to say that the post was liable to be sanctioned and the applicant regularised as such, as per the state of affairs prevailing on the date of Annexure-A2 G.O. The Government did not choose to act upon Annexure-A3 proposal, which was forwarded vide Annexure-A4 letter. A subsequent change of the Krishi Bhavan to another premises, the sweeping area of which is allegedly less than 100 sq.m., would not dis-entitle the sanctioning of the post and the consequent regularisation of the applicant, to which he was otherwise entitled to, as on the date of Annexure-A2 G.O., as evident from Annexure-A3. Inasmuch as the Government chose to sit over the proposal and delayed the same, the Government



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cannot be permitted to take advantage of its own inaction.

We find no reason to interfere with the reasoned order of the Tribunal and we confirm the same, with the result, this Original Petition fails and the same would stand dismissed. However, as requested by the learned Senior Government Pleader, we grant six weeks' time to the competent authority among the respondents to comply with the directions contained in paragraph no.7 of Ext.P3 impugned order.

Sd/-

ALEXANDER THOMAS, JUDGE

Sd/-

C. JAYACHANDRAN, JUDGE

skj

APPENDIX OF OP(KAT) 168/2022PETITIONERS' ANNEXURES:

EXHIBIT P1	TRUE COPY OF THE O.A NO.2094/2015 ALONG WITH ANNEXURES.
ANNEXURE A1	TRUE COPY OF THE CERTIFICATE NO.AB-8/01 DATED 17.01.2006 ISSUED BY THE ASSISTANT ENGINEER, PWD BUILDING SECTION ALUVA.
ANNEXURE A2	TRUE COPY OF THE GO.(P).NO.501/2005/FIN DATED 25.11.2005.
ANNEXURE A3	TRUE COPY OF THE APPLICATION SUBMITTED BY THE 3RD RESPONDENT DATED 18.01.2006 FOR CREATION OF POST OF PART-TIME CONTINGENT SWEEPER.
ANNEXURE A4	TRUE COPY OF THE COVERING LETTER OF THE AGRICULTURAL OFFICER KALADY, THE 3RD RESPONDENT.
ANNEXURE A5	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE APPLICANT BEFORE THE 1ST RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE 1ST RESPONDENT.
ANNEXURE R1 (A)	CERTIFICATE ISSUED BY THE ASSISTANT ENGINEER P.W.D BUILDING SECTION DATED 09.02.2010.
EXHIBIT P3	TRUE COPY OF THE ORDER DATED 13.11.2019 IN O.A NO.2094/2015.