

(2014) 01 KL CK 0031
In the High Court Of Kerala
Case No : OP (CAT). No. 1072 of 2013 (Z)

Sudha K.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 29-01-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2014) 01 KL CK 0031

Hon'ble Judges : T.B. Radhakrishnan, J;A. Muhamed Mustaque, J

Bench : Division Bench

Advocate : M.R. Hariraj, Sri. P.A. Kumaran, Smt. Vineetha B., Sri. Nirmal V. Nair, Sri. K. Rajagopal, Smt. M.A. Jinsa Mol, Advocate for the Appellant; P. Parameswaran Nair, ASG of India for R1 and R2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—The short issue that arose before the Central Administrative Tribunal was regarding the availability of vacancies for a particular examination to the category of postman. Vacancies were notified on 27.08.2010 and examination was on 29.08.2010. The Tribunal therefore, rightly noticed that the vacancies having been notified so late, all available vacancies on that day could be included. The Tribunal got down the records of the establishment and examined it in detail as regards the calculation of vacancies. It noted from the file, at serial number 115 thereof, that vacancies which arose as a result of the death of Sri. K.C. Shanmugham on 26.07.2010 was not included. This the Tribunal noted, could have been only because the file was processed and approval from the 1st respondent was being awaited at that time and no information would have been obtained regarding the occurrence of that vacancy. The 2nd vacancy which was pointed out as available but not counted was that which occurred due to the resignation of Smt. Mini. K. Menon on 01.12.2010 which occurred after the examination was conducted on 29.08.2010. The Tribunal, therefore, held that the exclusion of the two vacancies so noted cannot

be treated as any irregularity in the assessment of vacancies. Tribunal therefore, did not find themselves persuaded within the jurisdiction of the Administrative Tribunals Act to hold that there was any irregularity in assessment of vacancies and notifying the same just before the examination. On this factual finding of the learned Tribunal, we find ourselves unable to exercise jurisdiction under Article 227 of the Constitution of India and upset the findings of the learned Tribunal.

2. The learned counsel for the petitioner further argued that in relation to the same recruiting unit there is yet another judgment of the Tribunal on the basis of which the review petition was filed before the Tribunal, seeking review of the original order of the Tribunal, which is challenged here. Decisions of co-equal jurisdiction on questions of facts need not necessarily generate ground for review even in co-equal jurisdictions. We see that the learned Tribunal has gone into the review application as well and has concluded that no grounds for review existed. We find no illegality in that finding.

In the result, the original petition fails and the same is dismissed.