

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/00033/2019**

**Wednesday, this the 18<sup>th</sup> day of December, 2019**

**CORAM:**

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**  
**Hon'ble Mr. Ashish Kalia, Judicial Member**

1. Dr. Anumon V. Divakaran, S/o. Divakaran, aged 40 years, Vattaparambil House, Poickattusery, Chengamanad PO, Ernakulam.
2. Dr. Harikrishna R., S/o. M. Reghunathan, aged 43 years, Santhi Nivas, BTS Road, Attingal, Thiruvananthapuram -695 101.
3. Dr. Siju C.R., S/o. Raghavan C.K., aged 36 years, Type 4 Quarters, CGHS Hospital Begumpet, Telengana 500 016.
4. Sreemathi B.K., D/o. Kolavan, aged 42 years, Bhagyavathykunnu House, Attur, Thrissur-680583. .... **Applicants**

**(By Advocate : Mr. Saji Isaac)**

**V e r s u s**

1. Sree Chitra Tirunal Institute for Medical Sciences and Technology, Thiruvananthapuram – 695 011, represented by its Director.
2. Liaison Officer in respect of matters relating to the representation for the SC, ST and Persons with disabilities, Sree Chitra Tirunal Institute for Medical Sciences and Technology, Thiruvananthapuram – 695 011.
3. Union of India, represented by the Secretary, Department of Science and Technology, New Delhi – 110 001.
4. Thomas P. Abraham, Administrative Officer, Sree Chitra Tirunal Institute for Medical Sciences and Technology (SCTIMST), Trivandrum – 695 011.
5. Sreekesh Nair S., Assistant Engineer (Civil), Sree Chitra Tirunal Institute for Medical Sciences and Technology (SCTIMST), Trivandrum – 695 011.

6. Dr. Srikant Ambatipudi, Assistant Professor (AMCHSS),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
7. Dr. Mukund Prabhu A., Assistant Professor (Cardiology),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
8. Dr. Dinoop K.P., Assistant Professor (Clinical Microbiology),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
9. Dr. Tobin George, Assistant Professor (Neurosurgery),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
10. Dr. Amita R., Assistant Professor (Transfusion Medicine),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
11. Dr. Shivanesan P., Assistant Professor (Vascular Surgery),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
12. Dr. Raj Bharath R., Associate Professor (Transfusion Medicine),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
13. Neethu S., Engineer (Medical Instrumentation),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
14. Dr. Chhavi Gupta, Engineer C (Chemical Engineering),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
15. Saurabh S. Nair, Engineer C (Computational Fluid Dynamics),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
16. Subhash N.N., Engineer C (Industrial Design),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
17. Aravind Kumar Prajapati, Engineer C (Medical Devices),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.

18. Jithin Krishnan, Engineer C (Medical Instrumentation),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
19. Dr. K.G.V. Siva Kumar, Engineer D (Orthotics and Rehabilitation),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
20. Shaji Upendran, Engineer F (Division of Clinical Engineering),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
21. Suja Raj L., Lecturer in Nursing-A,  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
22. Rakhal Gaitonde, Professor (AMCHSS),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
23. Dr. Syam K., Additional Professor (Neurology),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
24. Dr. Renjith P. Nair, Scientist C (Blood Derived Products),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
25. Amrutha C., Scientist C (Medical Device Regulation),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
26. Dr. Nithya Vadakedath, Scientist C (Microbial Technology),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.
27. Dr. Jyothi E.K., Scientist C (Microbiology),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
28. Dr. Divya M.S., Scientist C (Pathology),  
Sree Chitra Tirunal Institute for Medical Sciences and Technology  
(SCTIMST), Trivandrum – 695 011.
29. Dr. Gijo Raj, Scientist C (Polymer Processing),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.

30. Dr. Pavan Kumar Srivas, Scientist C (Surface Coatings),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.

31. Dr. Manju Saraswathy, Scientist D (Dental Products),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.

32. Manoj G., Scientist D (Invitro Diagnostics),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura, Trivandrum – 695 012.

33. Sarath G., Scientist D (Medical Device Engineering),  
BMT Wing, Sree Chitra Tirunal Institute for Medical Sciences and  
Technology (SCTIMST), Poojappura,  
Trivandrum – 695 012. .... **Respondents**

**[By Advocates : Mr. T.R. Ravi (R1&2),  
Mr. Rajagopal L.K. (R3),  
Mr. Vishnu S. Chempazhanthiyil (R4-22, 24 & 25, 27-  
33) and Mr. Liju V. Stephan (R23)]**

This application having been heard on 10.12.2019, the Tribunal on 18.12.2019 delivered the following:

**O R D E R**

**Per Hon'ble Mr. Ashish Kalia, Judicial Member –**

The relief claimed by the applicants are as under:

“i. Call for the entire records relating to the selection pursuant to Annexure A1 notification and set aside Annexure A1 and to quash Annexure A8 series rank list pursuant to Annexure A1;

ii. Direct the 1<sup>st</sup> respondent to re-notify Annexure A1 notification complying with the reservation policy issued by the Government of India.”

2. The brief facts of the case are that the applicant No. 1 had applied for the posts of Scientist D (Division of Dental Products) and Scientist C (Polymer Processing), 2<sup>nd</sup> applicant for the post of Scientist D (Division of Dental Products), 3<sup>rd</sup> applicant for the post of Scientist C (Polymer

Processing) and the 4<sup>th</sup> applicant for the post of Senior Stores and Purchase Officer pursuant to Annexure A1 notification dated 2.4.2018 at the entry level posts. The applicants belong to SC, ST and OBC categories. It is submitted that there was no reservation for reserved categories as per the notification which is contrary to the Government of India OM dated 3.2.1970 which states that reservations are applicable to autonomous bodies also. According to the policy on reservation, even lowest grade of Group-A is covered by reservation policy as per the letter dated 3.6.2016 of the University Grants Commission. The applicants submitted that the respondents' Governing Body cannot override the reservation policy of the Government of India as the respondents are getting grant-in-aid from the Government. The Secretary, Department of Science and Technology has directed respondent No. 1 to withdraw the notification vide its order dated 19.9.2018. In response to the complaint submitted by applicant No. 1 to National Commission for SC, respondents submitted a reply stating that the notification dated 2.4.2018 is in line with the reservation policy of the Government of India. The entry grade cadre being Scientist B and Engineer B in Group-A category, reservation is strictly followed for those posts other than entry cadres which are exempted from the purview of reservation.

3. The applicants also submitted that respondents took this stand in regard to the reservation which was followed in toto including exemption for reservation available for scientific and technical posts in Group-A category other than entry cadre but has not stated that it has received exemption which is to be obtained prior to not providing reservation.

Actually the respondents have not received any exemption. Hence, applicants have approached this Tribunal for redressal of their grievances.

4. Notices were issued to the respondents and they entered appearance through Shri T.R. Ravi, learned counsel appearing for respondents Nos. 1 & 2, Mr. Rajagopal L.K., learned counsel appearing for respondent No. 3, Mr. Vishnu S. Chempazhanthiyil, learned counsel appearing for respondents Nos. 4-22, 24, 25 and 27-33 and Mr. Liju V. Stephan, learned counsel appearing for respondent No. 23.

5. Respondents 1 & 2 filed a detailed reply statement submitting that the applicants have applied for the post of Scientist D (Division of Dental Products) and Scientist C (Polymer Processing). These are academic posts and do not fall in the entry cadre of Group-A post and hence were earmarked for open/general category. They further submitted as under:

“3. ....The post of Sr. Purchase Officer is a non-academic post which according to the roster point was an unreserved post. All the applicants except the 4<sup>th</sup> applicants failed to secure the minimum required cut off marks in the interview and their names did not figure in the rank list. According to Government of India policy, relaxed standards can be applied only against reserved vacancies. Smt. Sreemathy B.K. the fourth applicant did not possess minimum qualification and experience stipulated for the post of Sr. Purchase and Stores Officer as per the notification. The direct recruitment vacancies for Sr. Purchase and Stores Officer are earmarked for open category as per the reservation roster stipulated by the Govt. of India for cadre strength up to 13 posts. According to Government of India policy, relaxed standards can be applied only against the reserved vacancies and such candidates with relaxed standards would not be considered against the unreserved vacancies. It is to be noted that the first three applicants have filed the application challenging the reservation policy only after attending the interview that too after completion of the selection process, apprehending their non-selection.

4. ....The notification was issued on 2.4.2018 to recruit candidates against 36 Group A posts (both academic and non-academic). This notification was issued in total compliance with the reservation policy of Government of India including the exemptions that have been foreseen for

Group A posts above entry level and after getting Governing Body approval. According to OM No. 36012/6/88-Estt(SCT)SRD dated 6.9.1999, when the direct recruitment has to be made for reserved as well as unreserved vacancies on any one occasion, a single advertisement should be issued specifying clearly therein the vacancies reserved for SC/ST/OBCs. Accordingly, details of reservation have been noted against the reserved post in the advertisement itself. As per Annexure A2, statutory bodies have to amend their statutes to implement the reservation policy. It is submitted that at the time of issuing Annexure A2, the SCTIMST or the erstwhile Sree Chitra Medical Centre Society for Advanced Studies in specialties, Trivandrum was not in existence. It is to be noted that while enacting the SCTIMST Act 1980 or issuing SCTIMST Rules 1981 and SCTIMST Regulations, 1981 the provision for reservation in appointments have not been included in the said Statutes of SCTIMST. As per the provisions of the SCTIMST Act, the Institute has to follow such directions as may be issued to it from time to time by the Central Government for the efficient administration in line with the provisions of the Act.....However, as per the decision of the Governing Body of the Institute, the Institute from its inception, even without a provision for reservation for appointments in the statute, has been following the reservation rules of the Government of India/Government of Kerala as the case may be including then Government of India exemptions for academic staff, viz., scientists, engineers and medical faculties in the Institute that belonged to Group 'A' category considering the fact that all of them work together for the common mandate of research and development.

8. ....The Institute has sent a reply letter stating that the notification was in total compliance with the reservation polices of the Government of India for Group A technical and scientific posts above the entry level after obtaining the approval of the Governing Body of the Institute. It was also reported in the reply that the Institute had issued a single advertisement clearly indicating the reserved vacancy as per directives contained in OM 36012/6/88-Estt (SCT) dated 6.9.1999 in total compliance with the prevailing GoI instructions for issue of notifications. It was informed that since the recruitment process against the notification has been completed, the Institute was not in a position to re-notify the same. The Institute noted the directions of DST for guidance and confirmed that future notifications would be issued specifically stating that the Institute recruitment is in accordance with the guidelines laid down by the GOI for recruitment. Base don this reply, the Hon'ble Minister for Science and Technology had replied to two Members of Parliament endorsing the reply of the Institute and that this issue stands closed..... since the Institute is an autonomous body under the control of GoI, Kerala State SC/ST Commission has no jurisdiction to issue such an order. Hence, the Institute approached Hon'ble High Court of Kerala. The Hon'ble High Court issued an order staying the directions issued by the Commission. The order of stay is still in force.....The posts for which the applicants applied/appeared for interview had only one vacancy each and hence the said rule is not mandatory for such posts.....

9. ....Exemption from reservation in a case of autonomous bodies arises only when there is a provision of reservation in their statute because reservation can be introduced only through its statute. Further, regarding exemption to be approved by the Minister concerned, no specific instructions is seen issued as to who is the authority to give such exemption in case of statutory bodies and autonomous bodies. In case of Public Sector Undertakings, where the delegation of powers and autonomy in

management is very much less compared to autonomous bodies, the Government of India vide OM No. 6/19/89-BPE(SC/ST cell) dated 25.4.1991 have issued instructions that the exemption may be approved by the Board of Directors. As autonomous bodies and PSUs are supposed to implement the reservation scheme in line with GoI, it is implemented by autonomous bodies using their own vested powers. Further it is to be noted that DST has to far not given exemption from reservation for any of the autonomous bodies under their administrative control. These institutes treat their scientific and technical posts above entry cadre as unreserved.

10. It is submitted that there is no irregularity in the appointment of the party respondents impleaded in the above application. Respondent No. 4, Sri Thomas P. Abraham has joined the Institute as Administrative Officer Gr. I. The post of Administrative Officer Gr. I in the Institute is a non-academic post with sanctioned strength of two for which reservation roster is applicable and is maintained by the Institute. It is submitted that the 4<sup>th</sup> respondent is an unnecessary party to the application since the applicants cannot have any claim regarding the above post. So also in the case of Respondents 5 and 21, who have joined the Institute as Assistant Engineer (Civil) and Lecturer in Nursing respectively, the post of Assistant Engineer is a non-academic post with single cadre strength for which reservation is not applicable and the post of Lecturer in Nursing has only a cadre strength of one, and being a single post reservation is not applicable. The 13<sup>th</sup> respondent who belongs to Other Backward Community has been appointed to the post of Engineer B which was reserved for OBC as per reservation roster following the reservation policy of GOI. She is also an unnecessary party.....”

6. The private respondents have also filed their reply statements reiterating the stand taken by the official respondents Nos. 1 & 2.

7. Heard Mr. Saji Isaac, learned counsel appearing for the applicant, Shri T.R. Ravi, learned counsel appearing for respondents Nos. 1 & 2, Mr. Rajagopal L.K., learned counsel appearing for respondent No. 3, Mr. Vishnu S. Chempazhanthiyil, learned counsel appearing for respondents Nos. 4-22, 24, 25 and 27-33 and Mr. Liju V. Stephan, learned counsel appearing for respondent No. 23 at length, perused the records and appreciated the legal position.

8. The applicants who belonged to the reserved category had applied for the posts of Scientists 'C' and 'D'. One of them Ms. Sreemathi B.K. had applied for the post of Sr. Purchase and Store Officer but she was not eligible for the same. The applicants have common grievance that the respondents being part of the Government of India institution had not applied the policy of reservation to the above said posts by giving them relaxation in terms of the reservation policy. Thus, selection so made is bad in law.

9. On the other hand learned counsel for respondents took a stand that the posts for which applicants have applied being a single post, reservation is not attracted. Otherwise by and large the respondent Institution is following the reservation policy of the Government of India except where exceptions for academic staff such as Scientists, Engineers and medical faculties in the Institute that belongs to Group-A category considering the fact that all of them work together for the common mandate of research and development. They have relied upon the apex court judgment in support of their contentions in the matter of **PGIMER v. K.L. Narasimhan & Anr. Etc.** dated 2.5.1997 wherein it was held as under:

“Though the posts like Assistant Professor and above in PGIMER could be scientific posts, as there is an obligation on the part of the Director to provide for reservation in the PGIMER Rules, the posts will have to be classified as Scientific and Technical post before exemption is applied.”

Similarly the SCTIMST Act which governs the respondent Institute does not cast such an obligation to provide reservation in appointments. They further submitted that the Government has considered the inclusion of

reservation to the autonomous bodies by issuing the OM in the year 1974 and instructed to get implement the provisions of reservation for SC & ST. The SCTIMST Act was enacted in 1980 and the Parliament in its wisdom did not include any provision for reservation in the statute creating the respondent Institute. The respondent Institute since inception continued the reservation for non-academic staff and continued the then existed practice of reservation in appointments in all categories including exemption for Scientific and Technical posts. However, the respondent as an abundant caution in this matter had sought exemption for 6 scientific categories including the scientific and technical post pursuance to the directive from DST, reservation was introduced in the entry cadre of Group A (Scientific & Technical posts) in 2018 which is in compliance with the Government of India policy which is sub judice before the Hon'ble High Court of Kerala but respondent Institute has not been prohibited from making further appointments to the scientific and technical posts.

10. Lastly the respondents submit that the applicants have taken part in the selection process and are now estopped from contesting the same on the grounds of reservation. We are in full agreement in this regard with respondents that once applicants participated in the selection and being unsuccessful are debarred challenging the same as held by the apex court in the matter of ***D. Sarojakumari v. R. Helen Thilakom & Ors.*** - (2017) 9 SCC 478 wherein the apex court held as under:

“11. As far as the present case is concerned an advertisement was issued by Respondent No.6 inviting applications for the post of Music Teacher in Samuel LMS High School. Respondent No.1 did not raise any objection at that stage that the post could not be filled in by direct recruitment and she

should be considered for promotion. Not only that, she in fact, applied for the post and took part in the selection process. After having taken part in the selection process and being found lower in merit to the appellant, she cannot at this stage be permitted to turn around and claim that the post could not be filled in by direct recruitment. The reasoning of the learned Single Judge in rejecting the objection is not in consonance with the law laid down by this Court. In view of this we need not go into the other issues raised.”

11. In view of the above discussion, we may hold that the single posts which are in question being Group-A scientific and technical posts, reservation is not attracted unless a specific provision is made by the Parliament that Group-A under scientific and technical post are not exempted from reservation then only it can be applied.

12. Therefore, the Original Application fails on account of merit. Accordingly, it is dismissed. MAs Nos. 180/425 & 805/2019 are closed. No order as to costs.

**(ASHISH KALIA)  
JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)  
ADMINISTRATIVE MEMBER**

“SA”

**Original Application No. 180/00033/2019****APPLICANTS' ANNEXURES**

**Annexure A1** – True copy of the notification Advt. No. P&A II/09/SSSC/SCTIMST/2018 dated 2.4.2018.

**Annexure A2** – True copy of the OM No. 17/4/69-(SCT) dated 3.2.1970.

**Annexure A3** – True copy of letter F. No. 59-6/2012(CU) dated 3.6.16.

**Annexure A4** – True copy of OM No. 39/40/74-(SCT)(I) dated 30.9.74.

**Annexure A5** – True copy of letter dated 28.6.2018 issued by Government of India.

**Annexure A6** – True copy of letter dated 9.5.2018 issued by Government of India.

**Annexure A7** – True copy of letter No. ALT13 SCT 2016 dated 19.9.2018.

**Annexure A8 series** – True copy of the Rank list No. P&A.II/443/SSSC/SCTNST/2017 dated 1.8.18.

**Annexure A9** – True copy of the order No. P&A 1/Amend.SSSC-JSSC/X/SCTIMST/2015 dated 13.2.2015.

**Annexure A10** – True copy of letter No. KL/12/4/2018(HQRS) dated 16.11.2018.

**Annexure A11** – True copy of OM No. 430111/53/2010 Est. (Res) dated 4.1.2013.

**Annexure A12** – True copy of the relevant pages of the minutes of the 104<sup>th</sup> Governing Body Meeting (GB/2019/01) of the 1<sup>st</sup> respondent.

**Annexure A13** – True copy of the office memorandum No. AI/Misc./002/98 dated 27<sup>th</sup> January, 1999 issued by the Ministry of Science and Technology.

**Annexure A14** – True copy of letter F. No. AI/1/13/SCT/2016 dated 3.3.2016 issued by the Ministry of Science and Technology.

**RESPONDENTS' ANNEXURES**

**Annexure R2(a)**—True copy of the letter No. AI/1/13/SCT/2016 dated 16.1.2019.

**Annexure R29(1)**—True copy of letter No. P&A II/443/SSSC/SCTIMST/2018 dated 24.9.2018 issued by SCTIMST.

**Annexure R29(2)**—True copy of letter No. A1/9/05/VIP/2018 dated 18.10.2018 issued to Hon'ble Member of Parliament Shri K. Somaprasad with typed copy.

**Annexure R29(3)**—True copy of letter No. A1/9/05/VIP/2018 dated 18.10.2018 issued to Hon'ble Member of Parliament Dt. Udit Raj with typed copy.

**Annexure R29(4)**—True copy of communication NO. P&A.1/211/SCTIMST/2018 dated 17.1.2019 issued by SCTIMST.

**Annexure R29(5)**—True copy of communication No. A1/1/13/SCT/2016 dated 18.1.2019 issued by Department of Science & Technology.

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