

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 380 of 2011

Monday, this the 25th day of July, 2011

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

- 1 Narayanan Potti. T
 S/o. Thrivikraman, Aged 43, Assistant
 Passport Office, Thiruvananthapuram
 Residing at T.C. 5/950 (1), Kasthubham
 Ambadi Nagar Lane -1, Sreekaryam (P.O)
 Thiruvananthapuram – 695 017.
- 2 Radhika R, D/o. Ramakrishnan, Aged 43,
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 Residing at MRA-10A (Revathy)
 Madathuvila Lane, Medical College (P.O)
 Thiruvananthapuram.
- 3 Kalakumari C, D/o. Chellamma, Aged 43,
 Assistant, Passport Office, Thiruvananthapuram
 Residing at T.C. 29/274, Brigadian Lane
 Vikas Bhavan Police Quarters-K1,
 Vikas Bhavan (P.O), Thiruvananthapuram.
- 4 Ajith Kumar S.S, S/o. S. Sukumaran Nair, Aged 43,
 Assistant, Passport Office, Thiruvananthapuram
 Residing at T.C. 27/861(2)
 Athani House, Athani Lane
 Vanchiyoor (P.O), Thiruvananthapuram-695035.
- 5 Anitha V, D/o. Vijayalakshmi Amma, Aged 44,
 Assistant, Passport Office, SNSM Bldg., Thiruvananthapuram,
 Residing at Rohini (Kunnil)
 Kzhakuttom (P.O), Thiruvananthapuram-695582.
- 6 Shamji B. Singh, S/o. S.K. Bhagavat Singh, Aged 44,
 Assistant, Passport Office, SNSM Building
 Thiruvananthapuram. Residing at Dwaraka
 Valiyaveli (P.O), Thiruvananthapuram-695021 .
- 7 Rema V., D/o. Vimala, aged 43,
 Assistant, Passport Office

SNSM Building, Thiruvananthapuram
 Residing at Sara Sree, Aiswarya Nagar
 Nalanchira (P.O), Thiruvananthapuram.

..... **Applicants**

(By Advocate – Mr. S.V. Rajan)

V e r s u s

- 1 Union of India
 Represented by the Secretary
 Ministry of External Affairs
 Government of India, New Delhi.
- 2 The Joint Secretary (CPV) and
 Chief Passport Officer
 Ministry of External Affairs
 Government of India, New Delhi.
- 3 The Regional Passport Officer
 Kaithamukku, Thiruvananthapuram-695024.
- 4 V. Vijayakumar, U.D.C
 Passport Office, Cochin.
- 5 Bertin M.N, U.D.C.
 Passport Office, Thiruvananthapuram.
- 6 Geethakumari C.S, U.D.C
 Passport Office, Thiruvananthapuram.
- 7 Mini D.K, U.D.C
 Passport Office, Thiruvananthapuram.
- 8 G. Srinivasa Rao, Assistant
 Passport Office, Hyderabad.
- 9 N.K. Suriyaprakash, Assistant
 Passport Office, Chennai.
- 10 Vikas Misra, Assistant
 Passport Office, Lucknow.
- 11 Asok Kumar Ray, Assistant
 Passport Office, Patna.
- 12 Shailendra Kumar Singha, Assistant
 Passport Office, Ranchi.
- 13 Asif Hussain, Assistant

Passport Office, Lucknow.

- 14 Sanjay Srivastava, Assistant Passport Office, Lucknow.
- 15 Pawan Kumar, Assistant Passport Office, Amritsar.
- 16 Pankaj Kumar Agarwal, Assistant Passport Office, Bareily.
- 17 Sanjeev Kumar, Assistant Passport Office, Jalandhar.
- 18 Sreekumar V., Assistant Passport Office, Thiruvananthapuram.
- 19 Narendra Kumar, Assistant Passport Office, Jalandhar.
- 20 Naresh Kumar, Assistant Passport Office, Delhi.
- 21 Maya Shivakumar, Assistant Passport Office, Cochin.
- 22 Lina Rajesh Tailor, Assistant Passport Office, Ahmedabad.
- 23 J.V. Rama Murthy, Assistant Passport Office, Hyderabad.
- 24 Suresh Chand, Assistant Passport Office, Delhi.
- 25 Sanjay Kumar Srivastava, Assistant Passport Office, Lucknow.
- 26 Sharad Gupta, Assistant Passport Office, Ahmedabad.
- 27 Prakash Chander, Assistant Passport Office, Jaipur.
- 28 Manish Jaiaswal, Assistant Passport Office, Patna.
- 29 Unnikrishnan, U.D.C Passport Office, Kozhikode.

- 30 Murali R.S, U.D.C
Passport Office, Thiruvananthapuram.
- 31 Ajildas N., U.D.C
Passport Office, Kozhikode.
- 32 Vijayakumari A, U.D.C
Passport Office, Thiruvananthapuram.
- 33 Ushakumari Amma S, U.D.C
Passport Office, Thiruvananthapuram.
- 34 Ajish Babu. V, U.D.C
Passport Office, Malappuram.
- 35 Kundan Singh, U.D.C
Passport Office, Ghaziabad.
- 36 Parameswaran A.R, U.D.C
Passport Office, Thiruvananthapuram.
- 37 Solie P., U.D.C
Passport Office, Thiruvananthapuram.
- 38 Jasmine S., U.D.C
Passport Office, Thiruvananthapuram.
- 39 Zeema Mary, U.D.C
Passport Office, Thiruvananthapuram.
- 40 Beena S.S, U.D.C
Passport Office, Thiruvananthapuram.
- 41 Remadevi P.A, U.D.C
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- 42 Jayachandran V.D, U.D.C
Passport Office, Cochin.
- 43 Girija N., U.D.C
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- 44 Jiji K., Assistant
Passport Office, Kozhikode.
- 45 Ani Shibu, Assistant,
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- 46 P.R. Krishnan, Assistant,
Passport Office, Trichy.
- 47 K.K. Asokan, Assistant,
Passport Office, Kozhikode.
- 48 Venugopalan P. U.D.C.
Passport Office, Kozhikode.
- 49 Mohanan P., Assistant,
Passport Office, Malappuram.
- 50 N. Geetha, U.D.C
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- 51 Saly Joseph Mani, Assistant,
Passport Office, Kozhikode.
- 52 Shibu John, Assistant,
Passport Office, Cochin.
- 53 Annie Alex, Assistant,
Passport Office, Cochin.
- 54 V.K. Ravindranath, Assistant,
Passport Office, Kozhikode.
- 55 V. Suralirajan, Assistant,
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- 56 Vinodini P., Assistant,
Passport Office, Kozhikode.
- 57 Sandeep Shukla, Assistant,
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- 58 Junie Susan Abraham, U.D.C
Passport Office, Thiruvananthapuram.
- 59 Rajeev Saxena, Assistant,
Passport Office, Lucknow.
- 60 P. Sivarani, Assistant,
Passport Office, Kozhikode.
- 61 Rajalakshmy Balachandran, Assistant,
Passport Office, Cochin.
- 62 N.K. Ajayakumar, Assistant,

Passport Office, Malappuram.

- 63 Sanjeev Saxena, Assistant,
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- 64 Kavita Sajay Pai, Assistant,
Passport Office, Mumbai.
- 65 Ushakumari K.T, Assistant,
Passport Office, Kozhikode.
- 66 Sathish Kumar Koottil, Assistant,
Passport Office, Kozhikode.
- 67 Suhasini C.P, Assistant,
Passport Office, Cochin.
- 68 Baby Shylaja Kuniyil, Assistant,
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- 69 Shamsher Bahadur Singh, Assistant,
Passport Office, Jalandhar.
- 70 M.P Ambikamol, Assistant,
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- 71 Santhosh Kumar K.V, Assistant,
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- 72 Babu. P.K, Assistant,
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- 73 Pratibha Verma, Assistant,
Passport Office, Bareily.
- 74 N. Parthasarathy, Assistant,
Passport Office, Trichy.
- 75 Theresa V.J.X.A, Assistant,
Passport Office, Bangalore.
- 76 Ajith Kumar. S, Assistant,
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- 77 Neena Jose, Assistant,
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- 78 Baby Sreeja V, Assistant,
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79 Sheeba. V, Assistant,
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80 C.K. Jayalekha, Assistant,
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81 R. Sridharan, Assistant,
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82 Beena. N.K, Assistant,
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83 Ramadevi P, U.D.C,
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84 Manoharan C.P., U.D.C,
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85 Rajagopal P.T, U.D.C,
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90 Daisy Paulose, Assistant
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91 Ramadasan T.K., Assistant
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92 Salilaja L.G., UDC,
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93 Preetha P.A, Assistant
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95 Shine C.M., Assistant
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96 Latha A.S, Assistant
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98 Bindu. K, Assistant
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99 Jayasree C, Assistant
Passport Office, Kozhikode.

100 S. Rajeswari, Assistant
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101 Lalitha T, Assistant
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102 Sobha Ajayakumar, Assistant
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103 Reeja V, Assistant
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104 Sheeba K, Assistant
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105 Bindu M, Assistant
Passport Office, Kozhikode.

106 Anithakumari M.K, Assistant
Passport Office, Kozhikode.

107 Smitha U.V., Assistant
Passport Office, Kozhikode.

108 Sunil Kumar. M, Assistant
Passport Office, Malappuram.

109 Reema A.R, Assistant
Passport Office, Kozhikode. **Respondents**

[By Advocate – Mr. Sunil Jacob Jose, SCGSC (R1-3)]

This Original Application having been heard on 25.7.2011, the



Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

The applicants while working as Upper Division Clerk, Annexure A-1 notification was issued. They participated in the examination and they were successful and they were promoted. In the meantime some of the candidates who were fully qualified as on the date of Annexure A-1 notification were not permitted to participate in the examination, approached this Tribunal by filing a separate OA and by an interim order they were permitted to appear in the examination. The rank list was published and these applicants were promoted to the posts of Assistants. But in the case of some others though they were not favoured with an interim order, they could not appear in the examination. By final order passed in OAs Nos. 737, 739 of 2008 and 45 of 2009 this Tribunal directed to conduct a supplementary examination so as to enable them also to appear in the examination. Accordingly, the supplementary examination was held on 21.3.2010. Subsequent to supplementary examination a seniority rank list was published. But the names of those who participated in the supplementary examination were not included in the combined rank list. At the same time some ineligible candidates names were also included. Those who were aggrieved by such circumstances have filed OAs Nos. 43, 68 and 86 of 2011. All these matters were heard together and by a common judgment rendered on 8th April, 2011 the following order was passed:-

“9. In the result we hold:-

- i) All those persons who had requisite qualification as on cut



of date viz. 26.9.2008 and who have appeared in the competitive examination are entitled to be included in the combined rank list based on the marks obtained by them in the examination.

ii) Those who did not satisfy the service eligibility conditions as on the cut off date cannot be included in the rank list merely for the reason that they have appeared in the examination on the basis of an interim order or otherwise.

iii) Since some of the candidates who have been included in the combined rank list having been promoted retrospectively within the 75% quota they cannot be included again in the combined rank list to fill up the 25% quota based on the examination. In such circumstances these vacancies will also be available to be filled up from the 25% quota.”

2. Now a combined seniority list is published Annexure A-7 produced in the present case. Since the combined seniority list is published in the light of the principles to be followed as held in the said judgment, one of the applicant herein pursuant to the combined seniority list has been reverted, a copy of the order is produced along with the MA as Annexure A-8. The contention of the applicants is that the persons who appeared in the supplementary examination were not in the cadre as on the date on which the original notification was issued. As such they cannot have a march over others who have been promoted based on the first examination held. It is also contended by learned counsel appearing for the applicants Shri Rajan that they were not parties in the earlier OAs filed.

3. We have heard learned counsel for the applicants Mr. S.V. Rajan and Mr. Sunil Jacob Jose, SCGSC for respondents 1-3 at length.

4. The fact remains that an examination was held to fill up 113

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vacancies of Assistants for which the feeder cadre is UDC. Those who could not participate in the examination but who were otherwise found eligible were enabled to participate in the examination either by an interim order or by conducting a supplementary examination as the case may be, with a view to do justice to the parties. If those who were found entitled to participate in the first examination are denied their rightful claim the course open for this Court was to either set aside the whole process giving everybody a chance to appear in the examination who are fully qualified as on the date of issuance of the notification or instead of cancelling the examination to order a supplementary examination to be held. The very purpose of holding a supplementary examination was to give an opportunity to those candidates who was unjustly denied entry to the examination. In other words they will relate back to Annexure A-1 notification when it was issued. As a matter of fact promotion to the post of Assistants could be made only if they pass the examination. There is no one among the applicants who were qualified even prior to notifying the vacancies. Thus the feeder category employees who were qualified otherwise have to pass the written test also and thus fully become qualified for promotion. It may be mentioned in this connection that the very promotion to the 25% quota is on merit basis. As such the denial of an opportunity to participate in the examination will virtually deny them to get promotion at the rightful time.

5. After consideration of all the aspects of the matter, the Tribunal directed the respondents to publish a combined rank list on the principles as involved and quoted above. The applicants are virtually challenging such

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finding. We do not think that any grounds have been made by the applicants warranting to take a different view. In the circumstances we find no merit in this Original Application and accordingly, it is dismissed with no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R RAMAN)
JUDICIAL MEMBER

“SA”