



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

FRIDAY, THE 21ST DAY OF MARCH 2025 / 30TH PHALGUNA, 1946

OP (KAT) NO. 68 OF 2024

AGAINST THE ORDER DATED 04.04.2023 IN OA NO.2094 OF 2021 OF
KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONERS/APPLICANTS 1,2,3,4,5,6,7,9,20,21,22,23,24,26 IN O.A.:

- 1 SUNITHKUMAR S,
 AGED 51 YEARS
 S/O SASIDHARAN NAIR, PEN NO. 108571, NOW WORKING AT
 KARAMANA POLICE STATION RESIDING AT CHANDANAM, NILAMA,
 OUKKODE, NEMOM P O, THIRUVANANTHAPURAM, PIN - 695020
- 2 SURESH P,
 AGED 53 YEARS
 S/O K. PURUSHOTHAMAN, NOW WORKING AS SUB INSPECTOR
 (GRADE), SSB, SECURITY, PATTOM, THIRUVANANTHAPURAM
 RESIDING AT SURESH BHAVAN, PANTHAPLAVU, P.O, PATTAZHI,
 PATHANAPURAM TALUK, KOLLAM DISTRICT, PIN - 691522
- 3 MANIKANDAN S,
 AGED 50 YEARS
 S/O SIVASAKARAN, PEN NO. 108677 RESIDING AT THYVILA
 HOUSE, KARAKKAMANDAPAM, NEMOM P.O, THIRUVANANTHAPURAM,
 PIN - 695020
- 4 SANTHOSHKUMAR. S,
 AGED 52 YEARS
 S/O SANKARANKUTTY NAIR, PEN NO.191271, NOW WORKING AT



FORT POLICE STATION RESIDING AT KRA-6, GOWRI SANKARAM,
KOOTTAPPANA, NEYYATTINKARA, THIRUVANANTHAPURAM
DISTRICT, PIN - 695521

- 5 SANTHOSHKUMAR G,
 AGED 47 YEARS
 S/O GOPALAKRISHNAN NAIR, PEN NO.108672, NOW WORKING AT
 KATTAKADA POLICE STATION, THIRUVANANTHAPURAM RURAL
 RESIDING AT BINDHU BHAVAN, TC 18/371, PUNNAKKAMUGAL,
 ARAMADA PO. THIRUVANANTHAPURAM DISTRICT, PIN - 695032

- 6 VINOD V.P,
 AGED 44 YEARS
 S/O P VIJAYAN NAIR, PEN NO.108734, NOW WORKING AT FORT
 POLICE STATION, RESIDING AT CHITTAZHAKATHU VEEDU,
 KARYIL, KAZHAKOOTOM P.O, THIRUVANANTHAPURAM DISTRICT,
 PIN - 695582

- 7 MANOJ P.S.,
 AGED 50 YEARS
 S/O PRABHAKARAN, PEN NO.191303, SI (GRADE), PEROORKADA
 POLICE STATION, RESIDING AT PRAVDA, VENKAVILA,
 IRINCHAYAM P.O., NEDUMANGAD, THIRUVANANTHAPURAM
 DISTRICT, PIN - 695561

- 8 ARAVIND R.P,
 AGED 47 YEARS
 S/O V RAJASEKHARAN NAIR, PEN NO.108581, RESIDING AT
 ABHAYAM, KRA 2, NEAR CORPORATION ZONAL OFFICE,
 PEROORKADA P.O, THIRUVANANTHAPURAM DISTRICT,
 PIN - 695005

- 9 SHAJUKUMAR R,
 AGED 47 YEARS
 S/O DHAMODHARAN, PEN NO. 110492, SUB INSPECTOR
 (GRADE), STATE SPECIAL BRANCH, THRISSUR CITY, RESIDING
 AT KOTTUKKAL HOUSE, BRAHMAKULAM P.O, THAIKKAD VIA
 GURUVAYOOR, THRISSUR DISTRICT, PIN - 680104

- 0 KURIACHAN K.K,
 AGED 47 YEARS
 S/O KURIAN, PEN NO. 110161, SUB INSPECTOR (GRADE),



R 6444, STATE CRIME BRANCH, EOW WING, THRISSUR UNIT,
AYYANTHOLE, RESIDING AT KUMBAKKIYIL HOUSE, POOMALA,
THRISSUR DISTRICT, PIN - 680581

- 11 MANOJKUMAR.K,
AGED 48 YEARS
S/O KANTHASWAMY CHETTIYAR A. PEN NO.110580, SUB
INSPECTOR (GRADE), VIGILANCE AND ANTI CORRUPTISH
BUREAU, PALAKKAD DISTRICT RESIDING AT DVARAKA, ASWATHI
NAGAR, ATHANIPARAMBU, OLAVAKKODU PO, PALAKKAD
DISTRICT, PIN - 678002
- 12 NAZEER.Y,
AGED 44 YEARS
S/O YUSUFF, PEN NO. 110129, CPO 5704, MANNARKKAD
POLICE STATION, RESIDING AT NANDANAKIZHAYA, ANAMARI
POST, PALAKKAD DISTRICT, PIN - 678506
- 13 C.T BABURAJ,
AGED 51 YEARS
S/O KUNCHUNNI GUPTHAN, PEN NO.110561, SUB INSPECTOR
(GRADE), RAILWAY POLICE STATION, PALAKKAD RESIDING AT
BABU NIVAS, PUNCHAPADAM P.O, PALAKKAD DISTRICT, PIN -
678633
- 14 JINEESH BABU.K,
AGED 48 YEARS
S/O KESAVAN, PEN NO.110032, ASSISTANT SUB INSPECTOR,
RAILWAY POLICE STATION MANNARKKAD, RESIDING AT
UTHRADAM, MYLAMPULLY, NAMPULLY PURA P.O., MUNDUR,
PALAKKAD, KERALA, PIN - 678592

BY ADVS.
V.M.KRISHNAKUMAR
P.S.SIDHARTHAN

RESPONDENTS/RESPONDENTS AND APPLICANTS 8, 10, 11, 12, 13,

14,15,16,17,18,19,25,27 IN OA:

- 1 STATE OF KERALA,
REPRESENTED BY ADDITIONAL CHIEF SECRETARY TO



GOVERNMENT, HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM DISTRICT, PIN - 695001

- 2 THE STATE POLICE CHIEF,
POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM
DISTRICT, PIN - 695010
- 3 SYAMAPRASAD, V.K,
AGED 52 YEARS
S/O VASUKUTTY NAIR, CPO 4318, ASSISTANT SUB INSPECTOR
(GRADE), CITY TRAFFIC POLICE STATION, PATTOM,
THIRUVANANTHAPURAM RESIDING AT SHYAMALALAYAM,
EDAMAYILA, VETTIYARA, NAVAYIKULAM, THIRUVANANTHAPURAM
KERALA STATE, PIN - 695603
- 4 SURESHKUMAR.S,
AGED 54 YEARS
S/O SREEDHARAN NAIR, CPO 4302, SUB-INSPECTOR (GRADE),
POOJAPPURA POLICE STATION, THIRUVANANTHAPURAM -
695012, RESIDING AT PRAKRITHY, KACHANI, KARAKULAM P.O,
THIRUVANANTHAPURAM DISTRICT KERALA STATE, PIN - 695584
- 5 ASHRAF C.V. ,
AGED 51 YEARS
S/O MAMMU, CPO 6058, SUB INSPECTOR (GRADE), EDAKKAD
POLICE STATION, KANNUR DISTRICT, RESIDING AT DARUL MAJA
MUTHUKUTTY, MOWANCHAERY, KANNUR DISTRICT, KERALA STATE,
PIN - 670613
- 6 PRASHEED K.P,
AGED 54 YEARS
S/O PADMANABHAN P.V, CPO 6059, SUB INSPECTOR (GRADE),
KOLAVALLOOR POLICE STATION, KOLAVALLOOR, KANNUR,
RESIDING AT PADAMA (H), POOKODE, KANNUR DISTRICT
KERALA STATE, PIN - 670691
- 7 NOUSHAD MOOPAN,
AGED 48 YEARS
S/O USSAN, CPO 6069, ASSISTANT SUB INSPECTOR (GRADE),
AIRPORT POLICE STATION, MATTANNUR, KANNUR- 670702,
RESIDING AT NIHAL VILLA, KOVALOOR, CHAVASSERY,
MATTANNUR, KANNUR DISTRICT KERALA STATE, PIN - 670702



- 8 K.RAJESH,
AGED 49 YEARS
S/O KELU NAMBIAR, CPO 6072, ASSISTANT SUB INSPECTOR
(GRADE), PINARAYI POLILCE STATION, PINARAYI, KANNUR,
RESIDING AT KOMONKANDI HOUSE, KADACHIRA, KANNUR
DISTRICT, KERALA STATE, PIN - 670621
- 9 VINOD R.P,
AGED 53 YEARS
S/O GOPALAN NAMBIAR, CPO 6068, SUB INSPECTOR (GRADE),
EDAKKAD POLICE STATION, KANNUR DISTRICT RESIDING AT
KOKKUNNAM HOUSE, MUNDERI, KANNUR DISTRICT, PIN -
670591
- 0 PRABHAKARAN P.P,
AGED 53 YEARS
S/O RAMAN P.P., CPO 6050, SUB INSPECTOR (GRADE),
PERAVOOR POLICE STATION, KANNUR DISTRICT, RESIDING AT
POTHIYAPARAYIL HOUSE, NUCHYAD, KANNUR DISTRICT KERALA
STATE, PIN - 670705
- 11 DILEEP KUMAR T,
AGED 52 YEARS
S/O GOVINDAN P.P, CPO 6716, SUB INSPECTOR (GRADE),
TALIPARAMBA POLICE STATION, KANNUR DISTRICT, RESIDING
AT GOVINDAM, MUKKUNNU, KUPPAM P.O, KANNUR DISTRICT
KERALA STATE, PIN - 670502
- 12 JAYAKRISHNAN M.P.,
AGED 49 YEARS
S/O M. BALAN NAMBIAR, CPO 6061, SUB INSPECTOR (GRADE),
NEW MAHI POLICE STATION, THALACHERI, KANNUR-673310.
RESIDING AT KRISHNA NIVAS, PANAKKAD, KARIMBAM P.O,
THALIPARAMBA, KANNUR DISTRICT, KERALA STATE, PIN -
670142
- 13 THILAKARAJ,
AGED 55 YEARS
S/O NANU, CPO 6071, ASSISTANT SUB INSPECTOR (GRADE),
RAILWAY POLICE STATION, KANNURDISTRICT RESIDING AT
ADHIGANGA, MADAPALLY COLLEGE P.O, VADAKARA, KOZHIKODE



DISTRICT KERALA, PIN - 673102

- 14 FAKRUDHEEN V.K,
AGED 54 YEARS
S/O KASSIM V, CPO 5695, ASSISTANT SUB INSPECTOR
(GRADE), RAILWAY POLICE STATION, OLAVAKKODE, PALAKKAD-
678002, RESIDING AT KHADEEJA MANZIL, SANTHI NAGAR,
MUTTIKULANGARA P.O, PALAKKAD DISTRICT, KERALA STATE,
PIN - 678594
- 15 PRASAD K.N,
AGED 55 YEARS
S/O NARAYANAN, CPO 5702, ASSISTANT SUB INSPECTOR
(GRADE), STATE SPECIAL BRANCH, MANGALAM DAM POLICE
STATION, PALAKKAD, RESIDING AT PRIYAM HOUSE,
PANDAMCODE, KORENCHIRA P.O., KIZHAKKANCEHRI, PALAKKAD
DISTRICT KERALA STATE, PIN - 678684

BY ADV POOJA SUNIL
GOVT.PLEADER SRI.SUNILKUMAR KURIAKOSE

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
HEARING ON 11.03.2025, ALONG WITH OP(KAT).362/2022, THE COURT ON
21.03.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

FRIDAY, THE 21ST DAY OF MARCH 2025 / 30TH PHALGUNA, 1946

OP (KAT) NO. 362 OF 2022

AGAINST THE ORDER DATED 27.06.2022 IN OA (EKM) NO.602 OF
2020 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER/RESPONDENTS IN O.A. (EKM) :

- 1 STATE OF KERALA, REPRESENTED BY ITS ADDITIONAL CHIEF
SECRETARY,
HOME DEPARTMENT, GOVERNMENT OF
KERALA, THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 2 THE STATE POLICE CHIEF,
POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA,
PIN - 695001
- 3 THE DEPUTY INSPECTOR GENERAL OF POLICE AND ADDITIONAL
COMMISSIONER OF POLICE,
CITY POLICE OFFICE, KOCHI, ERNAKULAM, KERALA,
PIN - 682011
- 4 THE DISTRICT POLICE CHIEF,
OFFICE OF THE DISTRICT POLICE CHIEF, ERNAKULAM, KERALA,
PIN - 682011

BY GOVERNMENT PLEADER SRI.SUNILKUMAR KURIAKOSE

**RESPONDENTS/APPLICANTS IN O.A. (EKM) :**

- 1 SRI.DENNY M D, S/O. SRI.DEVASSY M.I, ASSISTANT SUB
AGED 51 YEARS
INSPECTOR (GE), E-7450, ERNAKULAM TOWN POLICE STATION,
KOCHI CITY-682018, RESIDING AT MAZHUVANCHERRY HOUSE,
CHURCH AVENUE, AYYAMPILLY P.O., KUZHUPPILLY,
ERNAKULAM, KERALA, PIN - 682501
- 2 SRI.PRASAD P.C,
AGED 51 YEARS
S/O. P.I.CHANDRAN, ASSISTANT SUB INSPECTOR (GE) E-
7504, KALAMASSERRY POLICE STATION, KOCHI CITY,
RESIDING AT PADIKKAKUDY HOUSE, KOMBANAD P.O., PIN:
683544, KERALA.
- 3 K.V.SASI,
AGED 54 YEARS
S/O. SRI. VALAYUDHAN, SENIOR CIVIL POLICE OFFICER, E
7523, CITY TRAFFIC EAST, THRIPIUNITHURA, RESIDING AT
KOVILAKATHUPARAMBIL HOUSE, PRK NAGAR, VEZHAPPARAMBU,
MULANTHURUTHY, ERNAKULAM DISTRICT, PIN 682314, KERALA.
- 4 SRI.PRATHAPA CHANDRAN P.C,
AGED 51 YEARS
S/O. CHELLAPPAN NAIR, ASSISTANT SUB INSPECTOR (GE) E
7535, VIGILANCE AND ANTI-CORRUPTION BUREAU, CENTRAL
RANGE, ERNAKULAM, RESIDING AT PULIPRAYIL HOUSE,
VADAKARA P.O., THALAYOLAPARAMBU, KOTTAYAM, KERALA,
PIN - 686605
- 5 SRI.SUNNY K.T,
AGED 49 YEARS
S/O.THOMAS, ASSISTANT SUB INSPECTOR (GE) E 7546,
VIGILANCE AND ANTI-CORRUPTION BUREAU, CENTRAL RANGE,
ERNAKULAM, RESIDING AT KUTTIKKATTU HOUSE, UDAYANAPURAM
P.O., VAIKOM, KOTTAYAM DISTRICT, KERALA, PIN - 686143
- 6 SRI.THOMAS T.J,



- AGED 49 YEARS
S/O. SRI JOHNY, ASSISTANT SUB INSPECTOR (GE), E 7547,
CHERTHALA POLICE STATION, RESIDING AT THURUTHEL HOUSE,
SOUTH CHELLANAM PO, FORT KOCHI, KERALA, PIN - 682008
- 7 SRI.FULGEN . K,
AGED 50 YEARS
S/O. K.C. JOSEPH, ASSISTANT SUB INSPECTOR (GE), E
7554, CENTRAL POLICE STATION, KOCHI CITY. RESIDING AT
KEERAMPILLY HOUSE, VADUTHALA PO, ERNAKULAM DISTRICT,
KERALA, PIN - 682008
- 8 SRI.SUNNY P.P,
AGED 51 YEARS
S/O. POULOSE, ASSISTANT SUB INSPECTOR (GE), E 7564,
KALAMASSERRY POLICE STATION, KOCHI CITY, PIN-
683513 RESIDING AT PARAKKADAN HOUSE, OKKAL PO,
CHELAMATTOM, ERNAKULAM DISTRICT, KERALA, PIN - 683550
- 9 SRI.SARACHANDRA KUMAR,
AGED 51 YEARS
S/O.RAGAVAN PILLAI, AGED 51 YEARS, ASSISTANT SUB
INSPECTOR (GE), E 7583, PALARIVATTOM POLICE STATION,
KOCHI CITY, RESIDING AT KALATHIPARAMBIL HOUSE,
NERIYAMANGALAM PO, PH: 9497933368. KERALA,
PIN - 686693
- 0 SRI.SUDARSANAN C.K,
AGED 50 YEARS
S/O. SRI.KUMARAN,, ASSISTANT SUB INSPECTOR (GE), E
7608, POOCHAKKAL POLICE STATION, ALAPPUZHA, RESIDING
SUDARSANALAYAM, KULASEKHARAMANGALAM PO, VADIKOM,
KOTTAYAM DISTRICT, PH: 9947587001. KERALA,
PIN - 627862
- 11 SRI.M.A SHAJU,
AGED 50 YEARS
S/O. ANTONY M.V., AGED 50 YEARS, ASSISTANT SUB
INSPECTOR (GE), E 7658, CONTROL ROOM, ALAPPUZHA, PIN-
688001 RESIDING AT MALIYEKAL HOUSE,
KONTHURUTHY, THEVARA PO. ERNAKULAM DISTRICT, PH:
9497633183, KERALA., PIN - 682013



- 12 SRI.SHAJAN KURIAKOSE,
AGED 51 YEARS
S/O. KURIAKOSE, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7715, KOTTAPPADY POLICE STATION, PIN-
686692, RESIDING MATTATHIL HOUSE, MALAYANKEEZHU,
KOTHAMANGALAM, PH: 9674613751, KERALA, PIN - 686691
- 13 SRI.UNNIKRISHNAN .G,
S/O. GOVINDAN NAIR, AGED 49 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7738, CONTROL ROOM, KOCHI CITY, RESIDING AT
VALAMANGALAM HOUSE, NORTH GATE, VAIKOM, PH:
9497989080, KERALA, PIN - 686141
- 14 SRI.SUGUNAN A.P,
AGED 47 YEARS
S/O. PADMANABHAN, AGED 47 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7746, TRAFFIC WEST POLICE STATION, KOCHI
CITY, RESIDING AT ATHIPETTELIPARAMBIL HOUSE, NJARAKKAL
PO, ERNAKULAM DISTRICT, PH:9495747508, KERALA,
PIN - 682505
- 15 SRI.DHARMARATNAM A.K,
AGED 49 YEARS
S/O. KUNJAPPAN, AGED 49 YEARS. SENIOR CIVIL POLICE
OFFICER, E 7750, ERNAKULAM TOWN SOUTH POLICE STATION,
RESIDING AT KUZHUVELIPPARAMBIL HOUSE, AYYAMPILLY PO,
ERNAKULAM, PH: 9895216593, KERALA, PIN - 682501
- 16 SRI.P.M HARRIS,
AGED 48 YEARS
S/O. P.A MOHAMMED, SENIOR CIVIL POLICE OFFICER, E 7755.
CONTROL ROOM, KOCHI CITY. RESIDING AT PALLIPPURAM
HOUSE, EDAVANAKKAD PO, ERNAKULAM DISTRICT, PH
9495226672., KERALA, PIN - 682502
- 17 SRI.RAJENDRAN K,
AGED 49 YEARS
S/O. KRISHNA PANICKER, SENIOR CIVIL POLICE OFFICER, E
7865, KALADY POLICE STATION, ERNAKULAM DISTRICT,
RESIDING AT ELLUVILA HOUSE, KARINGALIKKAD, NADUVATTOM



MANJAPRA PO. ANGAMALY. PH: 9497982213, KERALA,
PIN - 683581

- 18 SRI.SENNY P,
AGED 47 YEARS
S/O. P.V PAILY, SENIOR CIVIL POLICE OFFICER, E 7836,
CRIME BRANCH, ERNAKULAM RANGE OFFICE, THRIPPUNITHURA,
RESIDING AT POROTHAN HOUSE, AKANAD, MADAKKUZHA PO.
ERNAKULAM DISTRICT, PH: 8075466058, KERALA,
PIN - 683546
- 19 SRI.N.R BABU,
AGED 51 YEARS
S/O. RAGHAVAN NAIR, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7774, CHOTTANIKKARA POLICE STATION,
ERANKULAM, RESIDING AT MUNDAKKAL HOUSE,
CHOTTANIKKARAPO, ERNAKULAM, PH: 9497932914, KERALA,
PIN - 682312
- 0 SRI.ANILKUMAR .R,
AGED 48 YEARS
S/O. RAVINDRAN, AGED 48 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7776, CRIME BRANCH, KOCHI CITY, RESIDING AT
ABHIRAMAM HOUSE, HOOZHTHIPADOM ROAD, KUREEKKAD,
ERNAKULAM DISTRICT, PH: 9497961946, KERALA,
PIN - 682305
- 21 SRI.JOSHY PAUL,
AGED 51 YEARS
S/O. PAILY, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7804, ANGAMALY POLICE STATION, RESIDING AT
PULIKKAL HOUSE, EAST CHERANELLOOR, P.O.
KALADY, ERNAKULAM DISTRICT. PH. 9497914191, KERALA,
PIN - 683574
- 22 SRI.K.I SALAM,
AGED 50 YEARS
S/O. HYDROSE, AGED 50 YEARS. SENIOR CIVIL POLICE
OFFICER, E 7824, TRAFFIC WEST POLICE STATION, KOCHI
CITY, RESIDING AT KARIVELIL HOUSE, MANNANTHURUTH,
VARAPPUZHA PO, ERNAKULAM DISTRICT. PH: 9446516732,
KERALA, PIN - 683517



- 23 SRI.JOSHY MATHEW,
AGED 47 YEARS
S/O. CHACKO MATHEW, AGED 47 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7834. PUTHENCROUZ POLICE STATION, RESIDING
AT KARIMPILAKKAL HOUSE, MEKKADAMBU PO, MUVATTUPUZHA,
PH: 9497933399, KERALA, PIN - 682316
- 24 SRI.P.K SALIM,
S/O. P.P.KOCHUMHAMMED, AGED 49 YEARS, SENIOR CIVIL
POLICE OFFICER, E 7841, BINANIPURAM POLICE STATION,
RESIDING AT PLAMOOTTIL HOUSE, PUTHUPPADY PO,
KOTHAMANGALAM, PH: 9895975999, KERALA, PIN - 686673
- 25 SRI.AJAYAKUMAR G,
AGED 51 YEARS
S/O. T.N. GOPI ACHARI, AGED 51 YEARS, SENIOR CIVIL
POLICE OFFICER, E 7871, MATTANCHERRY POLICE STATION,
RESIDING AT THOTTIYIL HOUSE, SNRA, 65A, SASTA NAGAR,
MARADU, PH: 9497932587, KERALA, PIN - 682304
- 26 SRI.JOHNSON K Y,
AGED 51 YEARS
S/O YOHANNAN, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7873., CRIME BRANCH, RANGE OFFICE,
THRIIPPUNITHURA, RESIDING AT KALATHIL HOUSE, PALLITHODU
PO, CHERTHALA, ALAPPUZHA, PH: 9495074134, KERALA,
PIN - 688540
- 27 K.V DINESAN,
AGED 50 YEARS
S/O P.K.VIJAYAN, AGED 50 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7877, PIRAVOM POLICE STATION, ERNAKULAM
RURAL, RESIDING AT KARUKAYIL HOUSE, UDAYAMPEROOR PO,
ERNAKULAM DISTRICT, PH: 9497932702, KERALA,
PIN - 682307
- 28 SRI.P.B SALI,
AGED 45 YEARS
S/O. BASHEER MOHAMMED, AGED 45 YEARS, SENIOR CIVIL
POLICE OFFICER, E 7885, VIGILANCE AND ANTI-CORRUPTION



BUREAU,CENTRAL RANGE, ERNAKULAM, RESIDING AT SS
BUILDING, P P ROAD, PANDALAM PO, PATHANAMTHITTA
DISTRICT. PH: 8943941442, KERALA, PIN - 689501

- 29 K.A JOHNSON,
AGED 51 YEARS
S/O. K.J. ANTONY, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 7912, TOURISM POLICE STATION, FORT KOCHI,
RESIDING AT KUNNEL HOUSE, CC 1/1325, FORT
KOCHI,ERNAKULAM DISTRICT, PH: 9497932556, KERALA,
PIN - 682001
- 0 SRI.K.K JALEEL
AGED 48 YEARS
S/O. KOCHUMARAICKAR, AGED 48 YEARS, SENIOR CIVIL
POLICE OFFICER, E 7962, VIGILANCE AND ANTI-CORRUPTION
BUREAU, CENTRAL RANGE, ERNAKULAM, RESIDING AT
KIDIYIRIKKAL HOUSE, CHANGAMPUZHA NAGAR PO,
KALAMASSERRY, PH: 9447610399.....KERALA, PIN - 682033
- 31 SRI.P.V GOPI,
AGED 51 YEARS
S/O. E. VELUTHA, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER. E 7968, RAILWAY POLICE STATION, ERNAKULAM,
RESIDING AT KANAKAVELI HOUSE, VADUTHALA JETTY PO,
AROOKUTTY. CHERTHALA, PH: 9497980422, KERALA,
PIN - 688535
- 32 SRI.ANSAR U.E,
AGED 53 YEARS
S/O. EBRAHIM, AGED 53 YEARS, SENIOR CIVIL POLICE
OFFICER, E-7972, VIGILANCE AND ANTI-CORRUPTION BUREAU,
ERNAKULAM UNIT, RESIDING AT BAITHULNOOR
HOUSE,AROOKUTTY PO. CHERTHALA, ALAPPUZHA, PH:
995701584, KERALA, PIN - 688534
- 33 SRI.PRADEESH KUMAR,
AGED 47 YEARS
S/O. PARAMESWARAN NAIR, AGED 47 YEARS, SENIOR CIVIL
POLICE OFFICER, E 7996, PALARIVATTOM POLICE STATION
(ON DEPUTATION AT NATIONAL INVESTIGATING AGENCY,
ERNAKULAM, KOCHI). RESIDING AT POURNAMI HOUSE,



THALAYOLAPARAMBU PO, KOTTAYAM, PH: 9447331016, KERALA,
PIN - 686605

- 34 SRI.RAMESAN P.A,
AGED 50 YEARS
S/O. P.AAMRUTHY, AGED 50 YEARS, SENIOR CIVIL POLICE
OFFICER, E 8007, TOURISM WING, FORT KOCHI, RESIDING AT
PALATHINKAL HOUSE, KANNAMALI PO, KOCHI, PH:
9497932558., KERALA, PIN - 682008
- 35 SRI.TOMY K.A,
AGED 52 YEARS
S/O. K.V. ANTONY, AGED 52 YEARS, SENIOR CIVIL POLICE
OFFICER, E 8015, KALAMASSERRY POLICE STATION, RESIDING
AT KALAPARAMBATH HOUSE, ALANGAD PO, ERNAKULAM, PH:
9497933176, KERALA, PIN - 683511
- 36 SRI.K.G ASHOK,
AGED 48 YEARS
S/O. K.V GANDHI, AGED 48 YEARS, SENIOR CIVIL POLICE
OFFICER, E 8051, CENTRAL POLICE STATION, KOCHI CITY,
RESIDING AT, PUTHIYEDATH HOUSE. PD ROAD,
PALLURUTHY, PH: 9446044396., KERALA, PIN - 682006
- 37 SRI.REJI M.V,
AGED 51 YEARS
S/O. VARGHESE, AGED 51 YEARS, SENIOR CIVIL POLICE
OFFICER, E 8102, KOOTHATTUKULAM POLICE STATION,
ERNAKULAM RURAL, RESIDING AT MANAYILPUTHENPURAYIL
HOUSE, PAMPAKUDA PO. ERNAKULAM DISTRICT, PH:
9400992196, KERALA, PIN - 686667
- 38 SRI.ABDUL RASHEED V.A,
AGED 50 YEARS
S/O. ABDUL KADER, AGED 50 YEARS, SENIOR CIVIL POLICE
OFFICER, E 8104, THADIYITTAPARAMBU POLICE STATION.
ERNAKULAM RURAL, RESIDING AT VATIMATTOM HOUSE, VENGOLA
PO, MEMMURY, ARACKAPPADY, PERUMBAVOOR, PH: 9446066018,
KERALA, PIN - 683562
- 39 SRI.RAFEEQUE,
AGED 51 YEARS



S/O. IBRAHIM, AGED 51 YEARS, SENIOR CIVIL POLICE OFFICER, E 8246 THRIKKAKARA POLICE STATION, KOCHI CITY, RESIDING AT NAMBILLIPADATH HOUSE, THRIKKAKARA P.O., KAKKANAD, ERNAKULAM 682 030. PHONE: 9497980429, KERALA, PIN - 682021

- 0 SRI.ARUNKUMAR T.S,
AGED 50 YEARS
S/O. KRISHNAVILASAM, AGED 50 YEARS, ASSISTANT SUB INSPECTOR (GE), E 7637, MAVELIKKARA POLICE STATION, ALAPPUZHA DISTRICT. RESIDING AT KRISHNAVILASAM, ARAYOOR P.O.. AMARAVILA VIA, NEYYATTINKARA, DISTRICT. 695122
PHONE: 9495163384, KERALA., PIN - 695122
- 41 SRI.ASHRAFF V.A,
AGED 53 YEARS
S/O. SRI. ALL M.A., AGED 53 YEARS, SUB INSPECTOR (GE). E 8304, ANGAMALI POLICE STATION, ANGAMALI 683572, RESIDING AT MATTATHIKOTTAYIL HOUSE, KOCHUKADAVU, MALA, THRISSUR DISTRICT 680734 , KERALA., PIN - 680732

BY ADVS.
T.G.SUNIL (PRANAVAM)
J.OM PRAKASH(K/657/1987)
C.X.ANTONY BENEDICT(K/000157/1990)
EMMANUAL SANJU(K/1596/2020)
SOJAN M.J. (K/000127/2019)
T.G.MANOJ
T.G.SANTHOSH
T.G.MAHESH

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR HEARING ON 11.03.2025, ALONG WITH OP(KAT).68/2024, THE COURT ON 21.03.2025 DELIVERED THE FOLLOWING:



CR

JUDGMENT

P.Krishna Kumar, J.

The questions raised in these cases relate to the seniority of Police Constables who joined Armed Reserve or Local Police from the Armed Police Battalion. As the subject matter in these cases is connected, it has been decided to dispose of them together.

2. We heard Sri.Ranjith Thampan, the learned Senior Counsel, as instructed by Sri.V.M.Krishnakumar, the learned counsel appearing for the petitioners in O.P.(KAT)No.68/2024, Sri.Sunilkumar Kuriakose, the learned Senior Government Pleader and also Sri.T.G.Sunil, the learned counsel appearing for the respondents in O.P.(KAT)No.362/2022.

O.P. (KAT)No.68/2024

3. The petitioners are Police Constables who



joined service in the Armed Police Battalion (APBn) during the period 1993 - 2004. Though they were entitled to get a transfer to their respective Armed Reserve on completion of a few years of service, they did not avail of that option initially. Later, based on the repeated representations made by the petitioners, they were transferred to the respective Armed Reserve as per Annexure A2 dated 11.5.2010, as a mercy chance. Meanwhile, several juniors of the petitioners had joined the respective Armed Reserve.

4. Subsequently, on 10.12.2010, as per Annexure A3, the Government decided to integrate the Armed Reserve with the District Local Police with effect from 01.04.2010 and thereby a common cadre namely 'Kerala Civil Police', came into existence.

5. The petitioners are now aggrieved by the seniority list prepared by the Police Department without considering their seniority based on the date of their initial appointment. When they submitted



representations, the Department intimated them through Annexure A8 that their seniority in the Kerala Civil Police cadre could be counted only with effect from the date of joining the Armed Reserve. Then the petitioners approached the Kerala Administrative Tribunal for fixing their seniority based on the date of appointment, which is in accordance with Rule 3 of the Kerala Police Subordinate Service Rules, 1980 ('the Special Rules', for short), as amended by the Kerala Police Subordinate Service (Amendment) Rules, 2017.

6. Rejecting their claim, the Tribunal found that, as per Annexure A3 order dated 10.12.2010, the Government had integrated the Armed Reserve with the District Local Police, thereby constituting the Kerala Civil Police with retrospective effect from 1.4.2010 and thus the transfer of petitioners from Armed Police Battalion to Armed Reserve on 11.05.2010 could only be considered as a transfer from Armed Police Battalion to Kerala Civil Police. Based on this, the Tribunal



further concluded that the petitioner would not be governed by the amended provisions in Rule 3 of the Special Rules and thus their seniority has to be fixed by the general rules in the Kerala State & Subordinate Service Rules, 1958 ('KS & SSR', for short) i.e., the date of joining in the new cadre.

7. It will be instructive to refer briefly to the historical events that led to the 2017 amendment to the Special Rules and the method of transfer and appointment to the various branches of the Kerala Police Service. The Kerala Police Constabulary originally consisted of three cadres such as (i) Armed Police Battalions (ii) Armed Reserve and (iii) General Executive Branch (Local Police). There were separate recruitment routes for the Police Constables in each of the said cadres and thus persons appointed in one cadre could have migrated to another cadre, but then they would lose their seniority in the parent cadre. Police Constables appointed in the Armed Police Battalion used



to get transferred to the Armed Reserve after their mandatory lock-in period by surrendering their seniority, based on the waiting list prepared from among the eligible and willing Police Constables, in accordance with their seniority. To illustrate, when the senior most Police Constable in the Armed Police Battalion joins the Armed Reserve he will be treated as the junior most in the Armed Reserve and will be ranked in the lowest position. This is for the reason that Rule 3 of the Special Rules, as it stood before 1980, provided that those who are migrating to another cadre in the Police force would lose their seniority and it would be reckoned only from the date on which they joined in the new cadre. This provision was consistent with the general rule in the first proviso to Rule 27 of Part II KS & SSR.

8. However, the Government found that the above provision creates heartburn among Police Constables who migrated from one wing to another wing of the Police



department. Then it was decided to protect their seniority by amending the Special Rules. Accordingly, Rule 3 of the Special Rules was amended with effect from 26.12.1980 by adding two provisos to Rule 3. The effect of the first proviso was that the seniority of such persons would be determined by the date of their first effective advice by the Public Service Commission. The purpose of the second proviso was to save the seniority of those who had already been appointed to the District Armed Reserve prior to 26.12.1980.

9. Later, the Government decided to stop the direct recruitment of Constables to the Armed Reserve by bringing another amendment to Rule 3 with effect from 10.03.1989. However, an unintended omission occurred at the time when the said amendment was carried into effect. The two provisos introduced on 26.12.1980 were mistakenly omitted while effecting the said amendment. This omission went unnoticed till this Court detected



the mistake in 2010 through its judgment in **Regi v. State of Kerala** (2010(2) KLT 265(DB)). Consequently, this omission was rectified by a further amendment to Rule 3 on 16.02.2017 and thereby the said provisions were reintroduced by the Government with retrospective effect from 17.07.1986, as Rule 3(2) and its proviso. This Court in **Pookunju A. & Others v. B.Anandakuttan Nair & Others** (MANU/KE/2637/2019) upheld the retrospective effect given to the said amendment, by holding that it was actually curative in nature.

10. The first question to be considered now is whether the seniority of the petitioners who were transferred to the Armed Reserve on 11.05.2010 is to be reckoned as per Rule 3(2) of the Special Rules, despite the fact that Armed Reserve and Local Police wings merged to Kerala Civil Police with effect from 01.04.2010.

11. Sri.Ranjith Thampan submitted that when the said provisions were reintroduced with effect from



17.7.1986, the petitioners were clearly entitled to get their seniority on the basis of the date of advice by the Public Service Commission and hence the stand taken by the respondents is untenable. It is also pointed out that Annexure A3, an executive order, could not be given retrospective effect, especially not to override the express provisions in Rule 3 of the Special Rules. Referring to Circular No.C3/100/2024/P&ARD dated 24/09/2024, the learned Senior Counsel further pointed out that, now the Government has taken a stand consistent with the contentions of the petitioners, by issuing a general direction to all the departments. The learned Senior Counsel placed reliance on the decisions in **Sub-Inspector Rooplal and Another v. Lt. Governor Through Chief Secretary, Delhi and Others** [(2000) (1) SCC 644] and **M.L.Bagga v. C.Murhar Rao** (1955 SCC OnLine Hyd 336: AIR 1956 Hyd 35) to support the contentions. It is further pointed out that the purpose for which the integration of the Armed Reserve and Armed Police



Battalion was made is to ensure that no member of the constabulary would come to the Local Police with a sense of loss of service and financial deficit.

12. Refuting the above arguments, the learned Government Pleader submitted that petitioners opted to remain in the Armed Police Battalion by availing the higher pay and benefits of Havildar while their juniors and even seniors had been working in the Local Police as Police Constables with lesser benefits and thus if seniority is given to the petitioners, it would significantly demoralise those persons. Many of the juniors of the petitioners might have been already promoted and if seniority is unsettled at this distant time, it would create a cascading effect and lead to endless litigations, it is submitted. He also pointed out that Annexure A3 Government Order effecting integration of different cadres specifically provides as follows:

“(e). Seniority of a member in the KCP cadre



shall ordinarily be decided on the basis of the date of original advice by PSC **except to the extent specified elsewhere hereunder** or as is or may be prescribed under Rules.

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(q). While carrying out integration and allocation of seniority, seniority which is already **lost through punishments, exercise of previous options, inter district transfer,** overlooking by any departmental Promotion Board etc. will be deemed to have been lost permanently. In the KPC seniority list, the placement appropriate to the punishment or loss of option suffered will be duly reflected."

(emphasis supplied)

13. After considering all relevant aspects, we find that the reasons assigned by the Tribunal for rejecting the claim of the petitioners are untenable. There is no dispute that Rule 3 of the Special Rules explicitly states that the seniority of a Police Constable who joined a District Armed Reserve from an Armed Police Battalion is determined by the date of first effective advice of the Public Service Commission to the post of



Police Constable in the Armed Police Battalion. Significantly, Sub Rule (2) to Rule 3, as it stands now, starts with a non-obstante clause for specifically overriding the general provisions contained in Rule 27 of KS & SSR. Sub-rule (2) has a retrospective effect from 26.12.1980. For ease of reference, sub-rule (2) of Rule 3 of the Special Rules is reproduced hereunder:

“(2) Notwithstanding anything contained in rule 27 of the General Rules of the Kerala State and Subordinate Service Rules, 1958, the seniority of a police constable appointed to a District Armed Reserve from an Armed Police Battalion shall be determined by the date of first effective advice of the Public Service Commission for his appointment or date of order of his first appointment, as the case may be, to the post of Police Constable in the Armed Police Battalion.”

14. The finding of the Tribunal that the petitioners could not be treated as appointees to the District Armed Reserve is incorrect. The above finding is based on the reasoning that by Annexure A3 order dated



10.12.2010 the Armed Reserve merged along with the Armed Police Battalion to form the Kerala Civil Police with effect from 1.4.2010 and thus it is not possible to consider that the petitioners were transferred to the *Armed Reserve* on 11.05.2010 (as the Armed Reserve became non-existing from 01.04.2010). The Tribunal further assumed that because the Armed Reserve was not existing then, sub-rule(2) of Rule 3 of the Special Rules was not applicable to the petitioners. In actuality, the petitioners became part of the Armed Reserve the moment when Annexure A2 order dated 11.05.2010 became effective. Annexure A3 integration order was passed only on 10.12.2010. Therefore, when Annexure A3 was passed, the petitioners had been working in the Armed Reserve for nearly seven months. In other words, on or after 11.05.2010, when the petitioners were "appointed to a District Armed Reserve from an Armed Police Battalion", a vested right accrued to them for being considered as seniors to all those



who became part of the Armed Reserve with their date of initial advice/appointment subsequent to that of the petitioners, even if they joined there prior to the petitioners.

15. Hence, even though the executive directions contained in Annexure A3 were to the effect that the Armed Reserve and the Armed Police Battalion were integrated into the Kerala Civil Police with effect from a date prior to Annexure A2, it is not possible to conclude that the petitioners are not governed by sub-rule(2) of Rule 3 of the Special Rules. An executive order issued mainly for a different purpose cannot override the statutory effect of sub-rule(2) of Rule 3.

16. We are also unable to accept the contention raised by the learned Senior Government Pleader based on Clauses (e) and (q) of Annexure A2, as it would fly in the face of Rule 3(2) if those clauses are interpreted in the manner suggested by him. Further, the said clauses state only that the seniority which is



already lost through the exercise of the previous option will not be counted while fixing the seniority based on the date of original advice. The said clause can be understood only to the extent where the seniority is lost in the said manner by the operation of specific statutory provisions governing the respective service, if any. As observed above, the moment when the petitioners joined the Armed Reserve, a vested right would accrue to them as contemplated in Rule 3 of the Special Rules. Such a vested right cannot be defeated by an executive action in the form of Annexure A3.

17. The learned Government Pleader strenuously contended that if the claim of the petitioners is allowed, many other persons who have given seniority above them would be affected, but they are not made parties to this litigation. It may be true that if the seniority is refixed on the basis of the provision contained in Rule 3(2) of the Special Rules, the



established seniority as per the existing practice followed by the respondents would be unsettled. However, our attempt is only to explain the effect of the statutory provisions and the Government Order above referred, in the matter of fixation of seniority of Police Constables. While fixing the seniority in accordance with the statutory rules, the department has to consider the grievances of all those persons who are likely to be affected. Be that as it may, we are not addressing the issue of non-joinder of affected parties which ought to have been raised by the State before the Tribunal.

18. It is also contended that if OP(KAT)68/2024 is allowed, it would unsettle the established seniority including the promotions given to many juniors of the petitioners. As noted above, we are only declaring the law applicable in the matter of promotion. Thus, if a promotion is already effected on the basis of a selection process for determining the comparative merit



of the incumbents, it is open to the department to take an appropriate stand in view of the settled law, when refixing the seniority.

19. Nevertheless, the position of petitioner No.13 is different. By producing Annexure R2(a), the respondents contended that petitioner No.13 relinquished his rights for posting in the Armed Reserve, in writing. The difference in his case is that, unlike the other petitioners who claimed that they were unable to give the option for by transfer appointment to Armed Reserve on previous occasions, due to some personal inconveniences, the petitioner No.13 had relinquished his right to be appointed, in writing. In this context, it is relevant to refer to Rule 38 of Part II KS&SSR which reads as follows:

“38. Relinquishment of rights by members.- Any person may, in writing, relinquish any right or privilege to which he may be entitled under these rules or the Special Rules, if, in the opinion of the Appointing Authority, such relinquishment is not opposed to public interest; and nothing



contained in these rules or the Special Rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished.

¹[Provided that request for relinquishment of right for promotion/appointment by transfer to a post, under the above rule, shall not be allowed if such request for relinquishment is submitted by the employee on or after the date of order by which the person was promoted or appointed by transfer to the said post.]

Explanation - The relinquishment of the right for promotion ¹[or appoint by transfer] under this Rule shall entail loss of seniority and a relinquishment of the right for promotion ¹[or appointment by transfer] shall not be permissible unless such relinquishment entails loss of seniority."

The effect of Rule 38 is that if an employee relinquishes in writing any *right or privilege* to which he is entitled under the KS&SSR or the Special Rules applicable to him, it is not required to recognize any right or privilege to the extent to which it has been

¹Amended as per the Kerala State and Subordinate Services (3rd Amendment) Rules, 2023. Published in the Official Gazette dated 4/12/2023



so relinquished. Thus, the next question to be considered is, whether a Police Constable who is eligible to be appointed to an Armed Reserve by virtue of his seniority, when relinquishes that privilege and later, based on his subsequent request, if he is posted in the Armed Reserve, should he be given seniority over those who have been given by-transfer appointment to the Armed Reserve in the meanwhile?

20. As discussed above, the moment when a Constable is appointed in the Armed Reserve, he would be entitled to get the benefit of Rule 3 (2) of the Special Rules for reckoning seniority on the basis of his date of advice. When he relinquishes his right to be appointed in the Armed Reserve in writing, Rule 38 mandates that nothing contained in the Special Rules shall be deemed to require the recognition to the extent to which it has been so relinquished. When an officer relinquishes his right or privilege to get appointed in the Armed Reserve based on his seniority, essentially he



relinquishes his right/privilege based on the seniority. Hence, he cannot later claim seniority over those who were appointed superseding him. Otherwise, it would amount to conferring him the benefit of the initial appointment, which he had relinquished. When he relinquishes the incidents of his seniority, viz., a right or privilege, he cannot later turn around and claim it back on getting by transfer appointment in a future turn. In such circumstances, Rule 38 would hinder him from claiming seniority relying on the provisions of the Special Rules, as against those who have been appointed during the interregnum period.

21. Sri.Ranjith Thampan, the learned Senior Counsel appearing for the petitioners, contended that Rule 38 has no application in the present case, as Rule 3 of the Special Rules would override the general provisions contained in Rule 38. We are not able to accept the said argument. There is no specific provision in the Special Rules in respect of the effect of



relinquishment of rights of an employee. On the contrary, Rule 38 takes in very specifically the consequence of relinquishment of the rights or privileges conferred by the *Special Rules*. It further provides that when such right or privilege is relinquished in writing, nothing contained in the *Special Rules* shall be deemed to recognise any right or privilege so relinquished. In the absence of any specific provision in the *Special Rules* concerned for overriding the effect of the above clause, Rule 38 will be applicable to the members of the *Special Rules*.

22. It is contended by Sri.T.G.Sunil that Rule 38 has application only in the case of promotion and thus the consequences of relinquishment should not be extended to the case of appointment by transfer. It is difficult to accept the said contention. It is significant to note that before the recent amendment made to Rule 38, the words "promotion or appointment by transfer" were not mentioned in the main part of Rule 38. The main



provision states about relinquishment of any right or privilege to which a member of a service is entitled and its consequences. If a person is eligible to be placed to any other grade/post/cadre or service on the basis of his seniority or such other criteria, it is a right or privilege conferred upon him, irrespective of whether it is by way of promotion or appointment by-transfer. If he relinquishes that privilege/right in writing, he cannot later on change his stance and say that he should be considered senior to those who have been placed on such grade/post/cadre or service (by promotion or appointment by transfer) in the meanwhile. This is the principle emanating from the main clause of Rule 38, even without the help of the later part of the provision, in the form of a newly added proviso and the pre-existing explanation, which was also recently subjected to an amendment to add the terms 'appointment by transfer'.

23. Sri.T.G.Sunil, the learned counsel appearing for



the respondents in O.P.(KAT)No.362/2022, referred to the decisions of this Court in **State of Kerala v. Suseela George** (2000(3)KLT 295) to support his contentions. In fact, in the said decision, this Court was considering a different issue. The petitioner therein had declined provisional promotion and then a declaration was obtained from him presumably as envisaged under Rule 38 of the KS&SSR. Then the Division Bench held that it is reasonable to assume that the relinquishment of promotion referred to in the Explanation to Rule 38 pertains to regular promotion and not provisional promotion. The said decision cannot be applied in the present circumstances.

24. An explanation clause was added to Rule 38 by G.O.(P)No.280/1982/GAD. dated 15.09.1982. By the said Explanation, it was clarified that a relinquishment of the right for promotion under Rule 38 shall not be permissible unless such relinquishment entails loss of seniority. Though the term "promotion" is specifically



mentioned in the Explanation, that does not mean that the substantive part of Rule 38 is applicable only in the case of promotion, when wider terms like 'any rights or privilege' are used therein. In this limited context, the latest amendment to Rule 38 further adds the term "appointment by transfer" as well in the Explanation. Therefore even if the term 'appointment by transfer' is added to the Explanation clause only recently, the wider operation of the principal clause cannot be limited from the date of the new amendment alone.

25. Thus it is to be concluded that if a Police Constable has relinquished his right to get appointed in the Armed Reserve through by transfer method, he cannot claim seniority over those persons who have been appointed prior to his joining the said cadre later.

26. We are not impressed by the contentions of the respondents that the petitioners should not be given seniority because earlier they had opted for permanent



retention in the Armed Police Battalion and thereby availed extra monetary benefits and thus later they should not be placed senior to the persons who have already joined the Armed Reserve/Local Police and served with lesser emoluments. When the statutory provision explicitly provides the criteria to be reckoned to accord seniority, such incidental aspects which are part of the conditions of service could not be projected as a ground to defeat the effect of the provisions in the Rule. If a Police Constable working in the Armed Police Battalion did not opt for a by-transfer appointment to the Armed Reserve on a previous occasion, that will not affect his seniority in the absence of any specific statutory instruction, particularly in view of the contrary provision in Rule 3(2) of the Special Rules. Suppose a Police Constable abstains from submitting willingness for by transfer appointment, that cannot be considered as a relinquishment of right within the meaning of Rule 38.



The inaction on the part of a candidate is not sufficient for visiting with the consequences envisaged in Rule 38. Only in a case where he relinquishes his privileges in writing, Rule 38 can be invoked.

O.P. (KAT) No.362/2022

27. The respondents in this original petition were appointed as Police Constables in the Armed Police Battalion pursuant to the advice of the Public Service Commission on 26.10.1992. Upon completion of the mandatory lock-in period, they were transferred to the District Armed Reserve Ernakulam between 1995 and 1996, respectively. They initially relinquished their transfer to the Local Police for one-year period. But later, they were posted in the Local Police during 1998-2001. As they were aggrieved by the seniority fixed by the department (in the Local Police Cadre) without taking into account their seniority based on the date of effective advice by the Public Service Commission, they approached the Kerala Administrative



Tribunal for fixation of seniority based on the criteria fixed by Rule 3 (2) of the Special Rules.

28. The Tribunal found that in view of the law laid down by this Court in **Pookunju A. & Others v. B.Anandakuttan Nair & Others** (MANU/KE/2637/2019) and by virtue of the provisions contained in Rule 3(2) of the Special Rules, the respondents are entitled to get their seniority fixed on the basis of the first effective date of advice. Aggrieved by the said direction, the State has come up with this original petition.

29. It is not in dispute that the respondents in this case had relinquished their claim for appointment by transfer to the Local Police for a period of one year. During the period of their relinquishment, Police Constables immediately junior to them were appointed in the Local Police over the turn of the respondents. The Department assigned seniority to those persons who were appointed during that time, over the present



respondents.

30. In view of the above discussion, it is to be clarified that the respondents who relinquished their claim for appointment by transfer to the Local Police for a period of one year cannot claim seniority over those persons who have been appointed during the interregnum period, by virtue of the provisions contained in Rule 38 of Part II KS&SSR.

31. In the result:

O.P.(KAT)No.68/2022 is allowed. The impugned order is set aside. The Department shall assign seniority to the petitioners on the basis of their date of advice, within two months. However, they are not entitled to claim seniority over any persons who have been appointed to the Armed Reserve or Local Police during the period of relinquishment, if any, made by the petitioners in writing.

O.P.(KAT)No.362/2022 is also allowed and the impugned order is set aside. It is clarified that though the



respondents are entitled to claim seniority as per Rule 3(2) of the Special Rules, they cannot claim seniority over any persons who have been appointed during the period of relinquishment, if any made, by them in writing.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

Sd/-

P.KRISHNA KUMAR

JUDGE

SV



APPENDIX OF OP (KAT) 362/2022

PETITIONER'S ANNEXURES

Annexure A1	TRUE COPY OF G.O. (P)NO.33/1989/HOME DATED 10.03.1989.
Annexure A2	TRUE COPY OF THE LETTER DATED 23.10.2013 OF THE 2ND RESPONDENT.
Annexure A3	TRUE COPY OF THE G.O. (P)NO.268/2010/HOME DATED 10.12.2010.
Annexure A4	TRUE COPY OF G.O. (RT)NO.2511/2015/HOME DATED 06.10.2015 AND CLEAR COPY
Annexure A5	TRUE COPY OF G.O. (RT)NO.969/2016/HOME DATED 17.03.2016.
Annexure A6	TRUE COPY OF THE LETTER DATED 24.11.2015 OF THE 4TH RESPONDENT.
Annexure A7	TRUE COPY OF THE ORDER DATED 15.11.2018 OF THIS HONOURABLE TRIBUNAL IN O.A. (EKM)NO.1648 OF 2016.
Annexure A8	TRUE COPY OF G.O. (P)NO.28/2017/HOME DATED 16.02.2017.
Annexure A9	TRUE COPY OF THE JUDGMENT DATED 07.08.2019 OF HONOURABLE HIGH COURT OF KERALA IN OP(KAT)NO.506 OF 2017 AND CONNECTED CASES.
Annexure A10	TRUE COPY OF ORDER NO.A3- 19802/2019/EC DATED 22.10.2019.
Annexure A11	TRUE COPY OF ORDER DATED 07.11.2019 OF THIS HONOURABLE TRIBUNAL IN MA(EKM)NO.2017 OF 2019 IN O.A(EKM)NO. 1648/2017.



- Annexure A12** **A TRUE COPY OF THE PROCEEDINGS NO.A3-143/2020/EC(1) DATED 23.01.2020 OF THE DEPUTY INSPECTOR GENERAL AND ADDITIONAL COMMISSIONER OF POLICE, CITY POLICE OFFICE, KOCHI CITY.**
- Annexure A13** **A TRUE COPY OF THE PROCEEDINGS NO.A3-143/2020/EC DATED 23.01.2020 OF THE DEPUTY INSPECTOR GENERAL AND ADDITIONAL COMMISSIONER OF POLICE, CITY POLICE OFFICE, KOCHI CITY.**
- Exhibit P1** **TRUE COPY OF THE O.A.(EKM) NO.602/2020 ALONG WITH ANNEXURES.**
- Exhibit P2** **TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE 2ND RESPONDENT.**
- Exhibit P3** **TRUE COPY OF THE ORDER DATED 27.06.2022 INO.A.(EKM)NO.602/2020.**



APPENDIX OF OP (KAT) 68/2024

PETITIONER'S ANNEXURES

Annexure A1	TRUE COPY OF LETTER NO.A1(A)/1114/06-APB DATED 11/01/2007 ISSUED BY THE INSPECTOR GENERAL OF POLICE (8 APB & TP.
Annexure A2	TRUE COPY OF ORDER NO.S.0 NO.58/2010/APB DATED 11/05/2010 OF THE I.G OF POLICE A.P BATTALION
Annexure A3	TRE COPY OF G.O(MS) NO.268/2010/HOME DATED 10/12/2010
Annexure A4	TRUE COPY OF REPRESENTATION SUBMITTED BY THE 1ST APPLICANT DATED 06/06/2020 TO THE 2TM RESPONDENT
Annexure A5	TRUE COPY OF REPRESENTATION SUBMITTED BY THE 11TH APPLICANT DATED 25/09/2019 TO 2ND RESPONDENT
Annexure A6	THE TRUE COPY OF THE REPRESENTATION DATED 03/11/2020 SUBMITTED BY THE 24TH APPLICANT
Annexure A7	TRUE COPY OF ORDER NO.A3/303/2018-HOME DATED 14/11/1019 OF THE 1ST RESPONDENT
Annexure A8	TRUE COPY OF THE LETTER NO.A1/44/2021-HOME [DATED 20/07/2021 OF THE 1ST RESPONDENT
Annexure A9	TRUE COPY OF THE NOTIFICATION NO. GOP G.O(P)BO/125/80/HOME DATED 26/12/1980 OF 1ST RESPONDENT
Annexure A10	TRUE COPY OF THE NOTIFICATION G.O(P)N0.33/89/HOME DATED 10/03/1989 OF R1
Annexure A 11	TRUE COPY OF THE G.O(P)NO.28/2017/HOME



DATED 16/02/2017 OF THE 1ST RESPONDENT

Annexure A12	TRUE COPY OF THE JUDGEMENT OF THE HON'BLE HIGH COURT IN O.P (KAT) NO.506/2017 DATED 7.8.2019
AnnexureA13	TRUE COPY OF THE ORDER NO. B.O NO.527/1998/KAP 2 DATED 16.10.1998 OF THE COMANDANT KAP2 BN PALKKAD
Annexure R2 (a)	TRUE COPY OPTION OF SRI .C.T. BABU RAJ
Exhibit P1	TRUE COPY OF THE LETTER NO.L2-96425 /08 DATED 06.10.2009 ISSUED BY THE DIRECTOR GENERAL OF POLICE TO THE INSPECTOR GENERAL OF POLICE
Exhibit P2	TRUE COPY OF O.A. NO. 2094 OF 2021 FILED BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH AT THIRUVANANTHAPURAM
Exhibit P3	TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE SECOND RESPONDENT ON 23.02.2022 IN O.A. NO. 2094 OF 2021
Exhibit P4	TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE FIRST RESPONDENT ON 23.03.2022 IN O.A. NO. 2094 OF 2021
Exhibit P5	TRUE COPY OF THE REJOINDER FILED BY THE APPLICANTS IN OA.2094/2021 ON 17.05.2022
Exhibit P6	TRUE COPY OF THE ADDITIONAL REPLY STATEMENT FILED ON BEHALF OF THE SECOND RESPONDENT ON 24.11.2022
Exhibit R2 (b)	TRUE COPY OF DO 670/99/P DATED 6/12/99
Exhibit P7	TRUE COPY OF THE REJOINDER FILED BY THE APPLICANTS IN OA.2094/2021 ON 19.12.2022



Exhibit P8

**TRUE COPY OF THE ADDITIONAL REPLY STATEMENT
FILED ON BEHALF OF THE FIRST RESPONDENT ON
09.03.2023 IN OA.NO.2094/2021**

Exhibit P9

**TRUE COPY OF THE ORDER OF THE KERALA
ADMINISTRATIVE TRIBUNAL IN O.A. NO. 2094 OF
2021 DATED 04.04.2023**

Exhibit P10

**TRUE COPY OF THE JUDGMENT IS WP(C) NO.
17241/2020 DATED 2.8.2022 OF THIS HON'BLE
COURT**