

S U P R E M E      C O U R T   O F      I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).4950/2007

(From the judgement and order dated 15/11/2006 in      WA No. 2092/2006  
of The HIGH COURT OF KERALA AT ERNAKULAM)

K. MADHUSOODANAN & ORS.      Petitioner(s)

VERSUS

STATE OF KERALA & ORS.      Respondent(s)

(With office report)

Date: 06/09/2010      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s)

Mr. Roy Abraham, Adv.  
Ms. Seema Jain, Adv.  
Mr. Vikas Arora, Adv.  
Mr.Himinder Lal,Adv.

For Respondent(s)

Mr. Vipin Nair, Adv.  
Mr. P.B. Suresh, Adv.  
Mr. Vivek Sharma, Adv.  
M/S. Temple Law Firm,Adv.  
Mr. R. Sathish ,Adv.  
Mrs. s. Geeta, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the Signed  
Order placed on the file.

(Rajni Mukhi)      (Juginder Kaur)  
P.A      Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7402 of 2010  
(Arising out of the SLP ( C ) No. 4950/2007

K. MADHUSOODANAN & ORS.

APPELLANTS

VERSUS

STATE OF KERALA & ORS.

RESPONDENTS

O R D E R

Leave granted.

This appeal is directed against the judgment

dated 15th November, 2006, passed by the High Court of Kerala in Writ Appeal No.2092 of 2006 dismissing the appeal and rejecting the appellants' prayer for being considered for appointment on the basis of the representation filed by them. The High Court was of the view that no orders could be passed in the appeal once the validity of the Select list had expired and no steps have been taken by the Kerala Public Service Commission to extend the same.

On behalf of the appellants it has been urged that on the basis of orders passed by the High Court the Select list was not given effect to from 29th September, 2003 to 19th January, 2004, during which period the appellants may have had an opportunity of being considered.

After hearing the learned counsel for the respective parties, we had by our order dated 5th January, 2009 requested the learned counsel for the Kerala Public Service Commission to take instructions with regard to the position of the appellants in the select list, viz-a-viz the last appointment made therefrom and the number of vacancies that would have been available which could have entitled the appellants to be considered for the appointment. Pursuant thereto,

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additional affidavits have been duly filed from which it would appear that if the Select list was allowed to be continued during the period requested thereto, the 6th and 9th appellants, namely, Mini C and A.K. Sasikumar would have been included within the zone of consideration for appointment.

It would appear from the submissions made on behalf of the respective parties that the orders of injunction had been obtained by other parties and the appellants were the victims thereof. But for the above, the appellants could have been considered for the appointment at the appropriate stage. Now, it has been shown that at least two of the eleven appellants, would have been eligible for appointment, if such order of injunction had not been passed. We are of the view that they should not suffer on account of the order of injunction which was obtained by others, although, it has also been submitted on behalf of the respondents that a fresh Select list has been prepared and about 200 vacancies have already been identified and also filled up.

In this situation, we have no alternative but to direct the Kerala Public Service Commission to advise the State of Kerala with regard to the status of appellants Mini C and A.K. Sasikumar, if necessary, by creating two super-numerary posts in the event vacancies are not available.

The same is to be done within one month from the communication of this order.

The appeal is disposed of accordingly.

.....J  
(ALTAMAS KABIR)

.....J

(A.K. PATNAIK)

NEW DELHI,  
September 6, 2010