

ITEM NO.104

COURT NO.6

SECTION XI -A

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

Civil Appeal No(s). 7849/2009

K.R.BABU

Appellant(s)

VERSUS

STATE OF KERALA &amp; ORS.

Respondent(s)

WITH

C.A. No. 7913/2009

Date : 10-08-2017 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MRS. JUSTICE R. BANUMATHICounsel for the  
partiesMr. C. S. Rajan, Sr. Adv.  
Mr. A. Raghunath, AORMr. Jaideep Gupta, Sr. Adv.  
Mr. Nishe Rajen Shonker, Adv.  
Mr. Anuj K. Joy, Adv.Mr. Manoj Ohri, Sr. Adv.  
Ms. Fizani Husain, Adv.  
Mr. Aftab Ali Khan, Adv.  
Mr. Abhimanyu, Adv.Mr. Vipin Nair, Adv.  
Mr. P. B. Suresh, Adv.  
Mr. Abhay Pratap Singh, Adv.

Mr. G. Prakash, AOR

Mr. Shekhar Kumar, AOR

Mr. A. Raghunath, AOR

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

By Judgment dated 17.01.2001, the writ petitioner before the High Court, one Mr. Raju T., was directed to be appointed "in the next advisable vacancy" for the post of Excise Inspector. It was

also directed that the seniority and service conditions of 83 candidates already advised and appointed, should not be disturbed. Those 83 candidates are the direct recruit candidates. There was also a further direction that on receipt of an advice, the Government shall provide appointment to the writ petitioner in the next available vacancy. According to the writ petitioner, the advisable vacancy was available in 1999.

It appears that there was a writ appeal against the said Judgment dated 17.01.2001. That writ appeal was dismissed on 13.11.2002, making it clear that the appointment of the writ petitioner shall not have any effect on the seniority of the persons already appointed. That Judgment, as already noted, is dated 13.11.2002.

Even after the dismissal of the writ appeal, it appears that the writ petitioner was advised on 16.01.2003 and appointed on 11.02.2003. In the meanwhile, there were quite a few promotions from 17.12.2003. Therefore, the simple question that arises for consideration is whether even ignoring all the contentions pertaining to the claim for the date of revised advice by the Public Service Commission, should the writ petitioner not get at least the position in seniority after the Judgment of the learned Single Judge or at the worst, after the Judgment of the Division Bench of the High Court?

Sh. Jaideep Gupta, learned senior counsel, seeks some time to get instruction.

The learned counsel appearing for the State is also directed to get instruction as to when the direct recruit vacancy arose in the cadre after 07.11.1996.

List on 12.09.2017 on top of the list.

(JAYANT KUMAR ARORA)  
COURT MASTER

(RENU DIWAN)  
ASSISTANT REGISTRAR