

R. Sreekumaran Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Jan. 24, 2025

Hon'ble Judges: A.Muhammed Mustaque, J; P. Krishna Kumar, J

Bench: Division Bench

Advocate: Millu Dandapani, Rameez Nooh, Siraj Abdul Salam, Ronit Zachariah, Gopika P.J., Asok M.Churian, T.S.Shyam Prasanth

Final Decision: Dismissed

Judgement

A.Muhammed Mustaque, J

1. The petitioners are working in the paramedical category under the Directorate of Health Services. They approached the Government for an

extension of their retirement age in the light of Annexure A1 Government Order extending the retirement age of medical doctors from 56 to 60 years,

and doctors engaged in Medical Education upto 62 years. Their case is that their service forms an integral part of the medical profession, functioning

alongside doctors and therefore, they should be treated at par with doctors regarding the retirement age. The Tribunal considered their matter and,

taking note of an earlier order passed by this Court in O.P. (KAT).No.139/2022, declined to interfere with the same. O.P. (KAT).No.139/2022 was

filed by the State challenging an order of the Tribunal. The Tribunal allowed the applications filed by the Doctors in Ayush Department other than

Allopathic system to retire at an age of 60 years at par with Allopathic doctors. This Court in O.P. (KAT).No.139/2022, noting that it involved a policy

decision, interfered with the order of the Tribunal and also directed the State Government to consider their grievances by a reasoned order. This Court

disposed of O.P. (KAT).No.139/2022 on 1/7/2022. It was at this juncture, the paramedical staff also filed an Original Application seeking similar

reliefs granted to doctors in Ayush Department other than Allopathic system. The Tribunal by an order dated 26/7/2022, noting the spirit of the order

in O.P. (KAT).No.139/2022 repelled the challenge and directed the Government to consider their grievances.

3. The judgment in O.P.(KAT).No.139/2022 was carried in a challenge before the Apex Court. The Apex Court refused to interfere with the matter

and directed the State Government to consider the matter. The State Government thereafter considered the matter and refused to enhance the age of

retirement of medical doctors other than in the allopathic system by an order dated 27/9/2022 (Ext.P8).

4. There was a challenge against Ext.P8 Government Order at the instance of Ayurvedic and Homoeopathic Doctors. The Tribunal refused to

interfere with the matter. Thereupon, a challenge was made before this Court in O.P. (KAT).No.233/2023. This Court also refused to interfere with

the matter. It is appropriate to refer to paragraph 3 of the judgment in O.P. (KAT).No.233/2023, which reads thus:

“3. The age of retirement is a policy decision of the Government. There cannot be any dispute with regard to the fact that both doctors are performing different

duties and they cannot be equated in terms of responsibilities and duties. The Apex Court in State of Gujarat and Others v. Dr.P. A. Bhatt and Others reported in

[(2023) SCC Online SC 503], kept distinction in mind while sustaining a challenge made by the State of Gujarat as against the order of the High Court of Gujarat to treat

BAMS Degree Holder (Bachelor of Ayurved in Medicine and Surgery) at par with the doctors holding MBBS Degree. The Apex Court held that they have to be

treated separately for the purpose of service conditions, including pay and other benefits.”

The paramedical staff cannot as a matter of right demand that they should be treated at par with doctors under whom they are working. The age of

retirement of a Government servant is determined by the Government. The Court cannot entertain any claim for enhancement of retirement age. It is

purely a policy decision of the Government. No case is made out in this matter for an interference. Accordingly, the original petition is dismissed..