

(2012) 03 KL CK 0194**High Court Of Kerala****Case No:** O.P. (KAT) No. 1010 of 2012

Sasikala

APPELLANT

Vs

Kerala Public Service
Commission

RESPONDENT

Date of Decision: March 22, 2012**Citation:** (2012) 2 KLJ 573 : (2012) 2 KLT 585**Hon'ble Judges:** Thottathil B. Radhakrishnan, J; P. Bhavadasan, J**Bench:** Division Bench**Advocate:** Kaleeswaram Raj, for the Appellant; P.C. Sasidharan, for the Respondent**Final Decision:** Dismissed**Judgement**

Thottathil B. Radhakrishnan, J.

The petitioner applied for selection on the basis of a notification issued by the Kerala Public Service Commission. Clause No. 1(a)7 of that notification required that the application shall include a photograph taken within a period of six months of the application and with the name of the applicant and the date of the recording of the photograph written on that photograph. Admittedly, the petitioner did not write her name or enter the date of photographing, on the photograph which was printed and uploaded while submitting the application on-line. K.P.S.C. rejected that application. The petitioner's challenge against that stands turned down by the Kerala Administrative Tribunal. In doing so, the Tribunal has followed the unreported judgment dated 4.7.2011 of a learned single Judge of this Court (Mr. Justice C.T. Ravi Kumar) in W.P. (C). No. 17767 of 2011. Hence this Original Petition by her. Arguing that the K.P.S.C. would be well within its authority to provide an opportunity to the petitioner to cure the defect, since the date of examination has not been announced, the learned counsel for the petitioner relied on the decision reported in *Manoj Kumar v. K.P.S.C* (1999 (2) KLT 534).

2. Having heard learned counsel for the petitioner and the learned counsel for the KPSC, we see that the decision in *Manoj Kumar* (supra) was rendered in a case where

the challenge was against the action of the K.P.S.C. extending opportunity to rectify the defects. As noted by the learned single Judge in that case, K.P.S.C. had granted opportunity to rectify what it termed as "minor defect" to all candidates who had committed such minor defects. But in the case in hand, if we were to treat the non-mentioning of the identity of the person and the date on which photograph is taken on the photograph as a minor defect, the very concept of the word "minor" as an adjective to the word "defect" would be lost sight of. The two crucial requirements are that the name of the person and the date of photographing shall be written on the photograph. The need for the mentioning of the name of the person is to identify the applicant. The date on which the photograph was taken has to be mentioned. That is for the purpose of ensuring that the photograph was taken within a period of six months before the application. Either way, we are unable to see that the said defect can be passed off as a minor one. We are of the view that the ratio in Manoj Kumar (supra) does not apply to the facts in this case.

3. Adverting to the judgment in W.P. (C) No. 17767 of 2011, we find that Clause No. 1 (a)7 has been pointedly considered and it has been rightly held that such conditions have been made with a view to prevent impersonation and ensure fairness in the conduct of examination. In our view, the learned Judge was justified in saying that such conditions cannot be taken as insignificant especially in the light of reported incidents. We affirm the view expressed in W.P. (C) No. 17767 of 2011.

4. For the aforesaid reasons, we find no legal infirmity or jurisdictional error in the decision of the Tribunal. Ultimately, learned counsel for the petitioner sought a clarification that this judgment may not preclude the petitioner from moving the K.P.S.C. for any relief. Petitioner does not have the right to make any such request to the K.P.S.C. since the question has been concluded here and K.P.S.C. will not be within its authority to go beyond the views expressed in this judgment.

In the result, this Original Petition fails and the same is dismissed in limine.