

## A. Mohammed Basheer Vs The State of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** Oct. 28, 2014

**Acts Referred:** Constitution of India, 1950 Article 14

**Citation:** (2015) 1 ILR 10 : (2014) 4 KHC 658

**Hon'ble Judges:** T.B. Radhakrishnan, J; Babu Mathew P. Joseph, J

**Bench:** Division Bench

**Advocate:** B. Suresh Kumar, Advocate for the Appellant; Babu Joseph Kuruvathazha, SC, Advocate for the Respondent

### Judgement

Babu Mathew P. Joseph, J.

The O.P. (KAT) No. 770 of 2013 has been filed challenging Ext. P1 order of the Kerala Administrative

Tribunal dismissing T.A. No. 365 of 2012 (W.P. (C) No. 4568 of 2005). O.P. (KAT) No. 1570 of 2013 has been filed challenging Annexure-

A1(a) order of the said Tribunal dismissing T.A. No. 5635 of 2012 (W.P. (C) No. 9467 of 2010). The question that arises for consideration and

decision in both these cases is one and the same. Therefore, they were heard together and are being disposed of by this common judgment.

2. The brief facts necessary for disposing of these Original Petitions are stated as follows: The Petitioner in O.P. (KAT) No. 770 of 2013 joined

the Kerala State Road Transport Corporation (for short, the KSRTC) as a Reserve Conductor on the advice of the Kerala Public Service

Commission on 26-03-1974. While working there as a Second Grade Conductor, he was relieved from the KSRTC on 21-06-1981 for joining

the Kerala Police Department as a Probationary Sub Inspector of Police as selected by the Kerala Public Service Commission. Accordingly, he

joined the said post in the Police Department on 22-06-1981. He had retired from the Police Department as a Deputy Superintendent of Police on

30-09-2005. He had moved the Government for reckoning the service rendered by him from 26-03-1974 to 21-06-1981 in the KSRTC as

qualifying service for computing pensionary benefits. But that representation was rejected by the Government by communication dated 18-01-

2005. The challenge against that communication and the prayer for reckoning the service rendered by the petitioner in the KSRTC as qualifying

service for pension were rejected by the Tribunal by the impugned Ext. P1 order. Aggrieved by the order of the Tribunal, the petitioner has

preferred the Original Petition before this Court.

3. The petitioner in O.P. (KAT) No. 1570 of 2013 joined the Khadi and Village Industries Board as a Lower Division Clerk on 05-09-1981 on

the advice of the Kerala Public Service Commission. He had continued as such till 23-12-1983. He joined the Revenue Department as a Lower

Division Clerk on the advice of the Kerala Public Service Commission on 24-12-1983. He had retired as a Deputy Tahsildar from the Revenue

Department on 31-03-2010. He had filed a representation for counting the service rendered by him in the Khadi and Village Industries Board also

as qualifying service for pensionary benefits. But, that was rejected by orders dated 14-07-2009 and 22-02-2010. The challenge against those

orders and the prayer for counting the service rendered by the petitioner in the Khadi and Village Industries Board as qualifying service for pension

were rejected by the Tribunal. Aggrieved by the order of the Tribunal, the petitioner has preferred the Original Petition before this Court.

4. Heard the learned counsel for the petitioners, learned Senior Government Pleader and the learned Standing Counsel for the KSRTC. Lengthy

arguments have been advanced by both the sides. We have also perused the records.

5. The petitioner in O.P. (KAT) No. 770 of 2013 had rendered service in the KSRTC from 26-03-1974 to 21-06-1981. The petitioner in O.P.

(KAT) No. 1570 of 2013 had rendered service in the Khadi and Village Industries Board from 05-09-1981 to 23-12-1983. The appointments of

the petitioners in the KSRTC and in the Khadi and Village Industries Board were on the advice of the Kerala Public Service Commission. Their

appointments in the Police Department and in the Revenue Department were also on the advice of the Kerala Public Service Commission. The

service in the KSRTC and in the Khadi and Village Industries Board are pensionable. The service with the Police Department and with the

Revenue Department are also pensionable. The question is as to whether the service rendered by the petitioners in the KSRTC and in the Khadi

and Village Industries Board can be reckoned as qualifying service along with the service rendered by them in the Police and Revenue

Departments for their pensionary benefits. According to the petitioners, their service with the KSRTC and with the Khadi and Village Industries

Board are liable to be reckoned as qualifying service for pensionary benefits in the light of various orders issued by the Government and the judicial

pronouncements. But, the respondents denied the claim so advanced by the petitioners contending that the petitioners are not legally entitled to

count their past service with the KSRTC and with the Khadi and Village Industries Board as service qualifying for pensionary benefits. We shall

examine.

6. The learned Tribunal dismissed the cases of the petitioners on the reasoning that in view of the Note to Rule 20 in Part III of the Kerala Service

Rules (for short, the KSR), they are not entitled to reckon their past service with the KSRTC and with the Khadi and Village Industries Board as

qualifying service for pensionary benefits.

7. Chapter II in Part III of the KSR deals with the qualifying services. Rule 10 in this Chapter reads as follows:

10. The service of an employee does not qualify for pension unless he is appointed, his duties regulated, and paid by the Government or under

conditions determined by the Government.

Going by this Rule, the petitioners' past service in the KSRTC and in the Khadi and Village Industries Board does not qualify for pension. But,

Rule 11 of this Chapter gives power to the Government to declare that any specified kind of service rendered shall qualify for pension and, in

individual cases, subject to such conditions as may be imposed in each case, allow service rendered by an employee to count for pension. The

relevant portion of Rule 11 reads as follows:

11. Notwithstanding the provisions of Rule 10, the Government may,

(1) declare that any specified kind of service rendered shall qualify for pension; and

(2) in individual cases, and subject to such conditions as they may think fit to impose in each case, allow service rendered by an employee to count

for pension.

Chapter II also deals with different services qualify for pension and do not qualify for pension.

8. The mobility of personnel between Central Government Departments and Central Autonomous Bodies or vice versa or between Central

Autonomous Bodies gained attention of the Central Government. The Government of India, in the O.M. dated 29-08-1984, issued orders to

count the service of Central Government Employees going over to Central Autonomous Bodies or vice versa or between Central Autonomous

Bodies for pension subject to certain conditions. A letter dated 17-02-1986 had been issued by the Government of India agreeing to extend the

benefit of the aforesaid order to employees of the Central Government absorbed in the State Government and State Autonomous Bodies and vice

versa. The orders in that respect were to be issued by the State Government. The question of extending such benefit to the employees of State

Government going over to Central Government/Central Autonomous Bodies and State Autonomous Bodies was under the consideration of the

Government of Kerala for a long time. On examining the matter in detail in consultation with the Government of India, the Government of Kerala

issued G.O. (P) No. 369/87/Fin. dated 31-03-1987 ordering that where State Government Employees borne on pensionable establishment and

employees of State Autonomous Bodies are allowed to be absorbed in Government of India/Autonomous Body, the service rendered by them

under the Government shall be allowed to be counted towards pension under Government of India/Autonomous Body irrespective of whether the

employees were temporary or permanent in Government. The same procedure was ordered to be applied in the case of employees of Government

of India/Autonomous Bodies who are permanently absorbed under the State Government/State Autonomous Bodies. This Government Order also

provided for discharge of pension liability by the respective Government/Autonomous Body as described in it. The Government of Kerala,

thereafter, issued G.O. (P) No. 383/89/Fin. dated 29-08-1989 ordering that when an employee of the State Government/State Autonomous

Body, borne on pensionable establishment, is allowed to be absorbed in the Government of India/Autonomous Body, the service rendered by him

under the State Government/State Autonomous Body shall be allowed to be counted towards pension under the Government of

India/Autonomous Body irrespective of whether the employee was temporary or permanent in the Government/Autonomous Body. The same

procedure will be applied in the case of employees of Government of India/Autonomous Bodies who are permanently absorbed under the State

Government/State Autonomous Bodies. Provision was also made for pro rata discharge of pension liability by the Government/Autonomous Body.

9. Later, Circular No. 74/99/Fin. dated 04-12-1999 had been issued by the Government of Kerala regarding sharing of pensionary liability on pro

rata basis. Thereafter, noting that no rule had been framed in respect of State Government employees who joined the Panchayats, Municipal

Common Service, Universities etc. after serving in the Government Department and vice versa on getting appointment by transfer or through direct

recruitment by Public Service Commission, the Government of Kerala issued G.O. (P) No. 228/2001/Fin. dated 02-02-2001 ordering that the

service, if any, put in by Government employees in the Municipal Common Service/Panchayat and Universities prior to their entry to State

Government Service including aided school service and vice versa can be reckoned for pensionary benefits. A Note was also proposed to be

incorporated under Rule 20 in Part III of the KSR for regulating the payment of lump sum contribution to the pension fund in respect of those

employees and for some other matters.

10. The opening paragraph of G.O. (P) No. 228/2001/Fin. dated 02-02-2001 reads as follows:

In the Government Orders read above, Government have issued guidelines for reckoning the service rendered in Government of India

Departments/Central Autonomous Bodies/State Government Departments/State Autonomous Bodies/Public Sector Undertakings etc. for

reckoning pensionary benefits consequent on permanent absorption in State Government Departments/State Autonomous Bodies and vice versa.

Pro-rata pension is payable in the cases of permanent absorption of Government employees in State/Central Public Undertakings and vice versa.

The Government Orders referred to in this paragraph are G.O. (P) No. 369/87/Fin. dated 31-03-1987 and G.O. (P) No. 383/89/Fin. dated 29-

08-1989. A learned single Judge of this Court had occasion to consider this paragraph in O.P. No. 10540 of 1998 and found in the judgment that

the employees who joined State Government Service after serving in State Autonomous Bodies/Public Sector Undertakings were entitled to count

their past service. Also found that the Kerala State Electricity Board (KSEB) and the KSRTC would come under the sweep of the expression

State Autonomous Bodies/Public Sector Undertakings"". Applying the same analogy, the Khadi and Village Industries Board also would come

under the sweep of the expression ""State Autonomous Bodies/Public Sector Undertakings"". Therefore, in the light of the aforesaid Government

Orders and the judgment rendered by this Court in O.P. No. 10540 of 1998, the petitioners are entitled to count their past service in the KSRTC

and in the Khadi and Village Industries Board for the purpose of computing their pensionary benefits. The judgment rendered by this Court in O.P.

No. 10540 of 1998 has become final and implemented. The question as to whether the past service put in by a government employee in the

KSRTC again came up for consideration before a learned single Judge in W.P. (C) No. 6536 of 2007. The learned single Judge, following the

judgment in O.P. No. 10540 of 1998, found that the petitioner in that case was entitled to count his past service in the KSRTC and directed to

reckon that service for the purpose of computing qualifying service for retirement benefits. That judgment also has become final and implemented.

11. A Division Bench of this Court in Babu P.K. Vs. The Chief Engineer, KSEB and Others, made certain observations as to the probable effect

of the Note sought to be introduced through G.O. (P) No. 228/2001/Fin. dated 02-02-2001 noticing that no such statutory rule was incorporated

by way of formal amendment in Part III of the KSR. The Division Bench, in this judgment, did not consider or advert to the judgment rendered by

this Court in O.P. No. 10540 of 1998.

12. The Government of Kerala issued G.O. (P) No. 269/2008/Fin. dated 21-06-2008 amending Rule 20 in Part III of the KSR by incorporating

a Proviso and a Note in that Rule. The amended Rule reads as follows:

20. Local Funds and Trust Funds. - Service paid from a Local Fund does not qualify for pension except under special orders of Government.

Provided that the past service put in by Government employees and Aided School/Aided College Teachers in Panchayath/Municipal Common

Service and Universities prior to their entry in State Government Service or Aided School/Aided College Service shall be reckoned as qualifying

service for Pension and Death-cum-Retirement Gratuity from Government.

Note:--The amount credited to/creditable to a pension fund for the service rendered by the employee is calculated for the period he worked with

the former employer and has to be paid by the former employer in lump at the time of such appointment of the employee to the State Government

Service or Aided School/Aided College Service. The amount so credited/creditable is the proportionate pensionary liability based on the previous

service; that is, the former employer should remit the Death-cum-Retirement Gratuity/Service Gratuity and Commuted Value of the entire

admissible pension reckoning the commutation factor applicable to the next birthday as on the date of absorption/joining the Government or Aided

School/Aided College Service as the case may be. The pensionary liability in such cases shall be remitted either by the former employer or by the

employee concerned within two years of joining. No interest shall be charged for delays up to 2 years. In the case of remittance beyond two years

from the date of joining, simple interest shall be charged. The interest to be charged shall be @ 5% per annum from the date of 2 years after the

date of joining till the date of remittance or 31st March, 2009, whichever is earlier and thereafter @ 9% till the date of remittance. The above

proviso shall not be applicable for appointments to or from Public Sector Undertakings, Autonomous Bodies or similar bodies, as they are

constituted under Companies Act or by separate legislation of the Central/State Government. In the case of prior service in Universities, only such

service in any of the following Universities shall be considered for this benefit:

(i) Kerala University

(ii) Calicut University

(iii) Mahatma Gandhi University

(iv) Sree Sankara University

(v) Kannur University

(vi) Cochin University of Science and Technology

(vii) Kerala Agricultural University

This shall apply to all cases in which retirement takes place on or after 2nd day of February, 2001.

13. This Proviso and Note, as could be seen from the amendment, were given retrospective effect from 02-02-2001. The Note says that the

Proviso shall not be applicable for appointments to or from Public Sector Undertakings, Autonomous Bodies or similar bodies, as they are

constituted under Companies Act or by separate legislation of the Central/State Government.

14. When the Transferred Applications which gave rise to these Original Petitions were considered by the learned Tribunal, it was pointed out on

behalf of the Government that the erstwhile employees of the Public Sector Undertakings/Autonomous Bodies like KSRTC and Khadi and Village

Industries Board were not entitled to count their such service along with the service under the Government for computing the pensionary benefits

on or after 02-02-2001 as the Note under Rule 20 in Part III of the KSR had come into force with effect from 02-02-2001 which stipulates that

the Proviso to Rule 20 shall not be applicable for appointments to or from Public Sector Undertakings, Autonomous Bodies or similar bodies as

they are constituted under Companies Act or by separate legislation. The KSRTC is a statutory corporation constituted under the Road Transport

Undertakings Act, 1948 which is a central legislation. The Khadi and Village Industries Board is constituted under the Kerala Khadi and Village

Industries Board Act, 1957. Therefore, following the stipulation made in the Note under Rule 20 in Part III of the KSR, the learned Tribunal found

that the service put in by the petitioners in the KSRTC and in the Khadi and Village Industries Board did not qualify for reckoning as service for

the purpose of pensionary benefits. The learned Tribunal also relied on a judgment rendered by a learned single Judge of this Court in W.P. (C)

No. 7747 of 2010. It was a case where the petitioners therein claimed to reckon their past service put in the Kerala State Electricity Board also as

qualifying service along with the service under the Government for the purpose of pensionary benefits. The learned single Judge rejected that claim

based on the Note under Rule 20 and also considering the judgment in Babu P.K. v. The Chief Engineer, KSEB and Others (supra). The learned

single Judge, in the judgment in W.P. (C) No. 7747 of 2010, did not consider the judgments of this Court in O.P. No. 10540 of 1998 or in W.P.

(C) No. 6536 of 2007 or the right accrued to the persons on the strength of G.O. (P) No. 369/87/Fin. dated 31-03-1987, G.O. (P) No.

383/89/Fin. dated 29-08-1989 and G.O. (P) No. 228/2001/Fin. dated 02-02-2001. The learned Tribunal also did not consider the right so

accrued to the employees based on those Government Orders.

15. Learned Senior Government Pleader submitted that as per Rule 20 in Part III of the KSR, the service paid from a Local Fund does not qualify

for pension except under special orders of Government. Rule 12 (19) in Part I of the KSR defines a Local Fund as follows:

(19) Local Fund. - Means -

(a) revenues administered by bodies which by law or rule having the force of law come under the control of Government, whether in regard to

proceedings generally or to specific matters, such as the sanctioning of their budgets; sanction to the creation or filling up of particular posts, or the

enactment of leave, pension or similar rules; and

(b) the revenues of any body which may be specially notified by the Government as such.

The KSRTC and the Khadi and Village Industries Board, as already noted, are constituted under separate legislations. It is possible to argue,

based on the definition of "local fund", that the service of the employees of these two organizations is paid from local funds and hence, such service

does not qualify for pension as specified in Rule 20 in Part III of the KSR. In the nature of the legal questions involved in the cases on hand, we are

of the view that we need not consider and answer the question whether the employees of the KSRTC and the Khadi and Village Industries Board

are paid from local funds or not. Such a question is left open for consideration in an appropriate case.

16. One thing is certain. Rule 20 generally stipulates that the service paid from a local fund does not qualify for pension. Even if the service of the

employees in the KSRTC and in the Khadi and Village Industries Board is considered to be service paid from local funds as argued by the learned

Senior Government Pleader, there is no bar in Rule 20 preventing to reckon such service also as service qualifying for pension under special orders

of Government. Rule 11 in Part III of the KSR empowers the Government to declare any specified kind of service rendered shall qualify for

pension. Therefore, if the Government issues orders specifying the service rendered by the employees of the KSRTC and the Khadi and Village

Industries Board as service qualifying for pension, such service can be reckoned as qualifying service for pensionary benefits. Now the question is

whether the Government have issued orders making the service put in by the petitioners in the KSRTC and in the Khadi and Village Industries

Board as service qualifying for pension or not.

17. The Government issued G.O. (P) No. 369/87/Fin. dated 31-03-1987, G.O. (P) No. 383/89/Fin. dated 29-08-1989 and G.O. (P) No.

228/2001/Fin. dated 02-02-2001 for reckoning the services rendered in Government of India Departments/Central Autonomous Bodies/State



Government Departments/State Autonomous Bodies/Public Sector Undertakings etc. for pensionary benefits consequent on permanent absorption

in State Government Departments/State Autonomous Bodies and vice versa. This Court on considering these orders found in the judgment in O.P.

No. 10540 of 1998 that the employees who joined State Government Service after serving in State Autonomous Bodies/Public Sector

Undertakings were entitled to count their such service along with their service under the Government as qualifying for pension. Also found that the

KSRTC would come under the sweep of the expression ""State Autonomous Bodies/Public Sector Undertakings"". Applying the same analogy, the

Khadi and Village Industries Board also would come under the sweep of the expression ""State Autonomous Bodies/Public Sector Undertakings"".

The judgment rendered by this Court in O.P. No. 10540 of 1998 has become final and implemented. This Court again considered the question as

to whether the past service put in by a Government employee in the KSRTC would qualify for pension in W.P. (C) No. 6536 of 2007. In that

case also, following the judgment in O.P. No. 10540 of 1998, this Court found that the petitioner therein was entitled to count his past service in

the KSRTC as qualifying service for the purpose of pensionary benefits. That judgment also has become final and implemented. Therefore, in the

light of the said three Government Orders and the two judgments of this Court, the service put in by the petitioners in the KSRTC and in the Khadi

and Village Industries Board can be reckoned as service qualifying for computing pensionary benefits.

18. The operation and sweep of G.O. (P) No. 369/87/Fin. dated 31-03-1987 and G.O. (P) No. 383/89/Fin. dated 29-08-1989 led to the

situation reflected in the opening paragraph of G.O. (P) No. 228/2001/Fin. dated 02-02-2001. Such a decision of the Government, in our view,

amounts to a declaration that different kinds of services specified by those Government Orders shall qualify for pension. The services rendered by

the petitioners in the KSRTC and in the Khadi and Village Industries Board are also such specified services qualifying for pension. The declaration

evidenced by the said Government Orders would be one falling under Rule 11(1) in Part III of the KSR making such service qualifying to be

counted for pensionary benefits. This view in respect of the matter appears to have escaped the notice of the learned Tribunal.

19. The matter deserves to be considered in the light of the equality clause enshrined in Article 14 of the Constitution of India. The KSRTC and

the Khadi and Village Industries Board, as already found, are State Autonomous Bodies/Public Sector Undertakings. The persons employed

under them were conferred with the benefit of counting their service under them as qualifying service for pensionary benefits on the strength of

G.O. (P) No. 369/87/Fin. dated 31-03-1987 and G.O. (P) No. 383/89/Fin. dated 29-08-1989 as noted in the opening paragraph of G.O. (P)

No. 228/2001/Fin. dated 02-02-2001. Such a position governed the field for a span of more than a decade. If executive orders of the

Government were so issued conferring such benefit to a class of employees, such accrued benefit would also be treated as part of their vested right

and legitimate expectation in connection with the retirement. Any retroactive deprivation of such benefit, that too, by fixing a cut off date, namely,

02-02-2001, would have no nexus to any legitimate objects sought to be achieved by introducing such amendment to Rule 20 in Part III of the

KSR. Such a situation would project a glaring instance of hostile discrimination, apart from arbitrary classification on the basis of irrational

yardsticks, leading to yet another class of hostile discrimination violative of Article 14 of the Constitution.

20. Rule 20 in Part III of the KSR stipulates that service paid from a local fund does not qualify for pension except under special orders of

Government. There is no ambiguity in this Rule admitting any difficulty in construing the provision. By introducing a Proviso as per G.O. (P) No.

269/2008/Fin. dated 21-06-2008, the Government of Kerala had incorporated certain exceptions to the Rule by providing that the past service

rendered by Government employees and Aided School/Aided College Teachers in Panchayat/Municipal Common Service and Universities prior

to their entry to State Government service or Aided School/Aided College Service shall be reckoned as qualifying service for pension and death-

cum-retirement gratuity from the Government. By the said amendment a Note also has been inserted below the Proviso. A reading of this Note

would go to show that it explains how the amount credited to or creditable to a pension fund for the service rendered by the employee be

calculated for the period he worked with the former employer and has to be paid by the former employer in lump at the time of such appointment

of the employee to the State Government service or Aided School/Aided College service and certain allied matters. But curiously enough, in the

last part of this Note, it is stipulated that the Proviso shall not be applicable to appointments to or from Public Sector Undertakings, Autonomous

Bodies or similar bodies as they are constituted under Companies Act or by separate legislation of the Central/State Government. This stipulation

is something unconnected to the Proviso incorporated or the purpose of the Note introduced by the amendment.

21. The Government of Kerala have not issued any order superseding G.O. (P) No. 369/87/Fin. dated 31-03-1987, G.O. (P) No. 383/89/Fin.

dated 29-08-1989 and G.O. (P) No. 228/2001/Fin. Dated 02-02-2001. The said G.Os. were issued by the Government invoking their powers

under Rule 11 read with Rule 20 in Part III of the KSR. Such Government Orders granting benefits were emanated from the statute, namely, the

KSR. Such rights so emerged cannot be interfered with by adding something contrary to the same in a Note introduced for the purpose of working

and implementing the Proviso to Rule 20. The function of a Note is to provide procedure and to control discretion. When the Rules are silent, the

Notes will fill up the gaps. Here, Rule 20 is not silent. It is not ambiguous. Its meaning is very clear. By introducing a Proviso to this Rule, certain

exceptions have been carved out. In order to work out and implement the contents of the Proviso, a Note also has been introduced along with the

amendment. But, the stipulation in the last part of the Note that the Proviso shall not be applicable to appointments to or from Public Sector

Undertakings, Autonomous Bodies or similar bodies as they are constituted under Companies Act or by separate legislation is totally unconnected

and strange to the said Proviso and Note. A right or benefit granted by the Government invoking their powers under Rule 11 read with Rule 20 by

issuing the G.Os. already referred to cannot be taken away by way of adding such a stipulation in a Note of this nature. Therefore, the said

stipulation is liable to be read down and cannot be applied to persons like the petitioners so as to take away the right or benefit accrued to them.

22. The Government of Kerala had issued G.O. (P) No. 517/09/Fin. dated 19-11-2009 dispensing with the payment of pro rata pensionary

liability as ordered in it. Subsequently, it has been given statutory recognition by introducing a Note under Rule 20 in Part III of the KSR by way of

amendment. The relevant portion of that Note reads as follows:

The cases where payment towards pro-rata pension liability have already been made by a former employer as per the Rules prior to the 19th day

of November, 2009 shall not be re-opened and in all other cases including cases where payment have become due but not paid, such payments

shall not be made.

Therefore, in order to reckon the past service rendered by the petitioners in the KSRTC and in the Khadi and Village Industries Board as

qualifying service, the question of payment of pro rata pension does not arise. Without such payment, they are entitled to count such past service

along with their service under the Government for the purpose of computing pensionary benefits.

23. For the aforesaid reasons and discussions, the petitioners in both the Original Petitions are entitled to count their past service in the KSRTC

and in the Khadi and Village Industries Board as qualifying service for the purpose of computing their pensionary benefits. Therefore, they are

entitled to succeed in these Original Petitions.

In the result,

1) The impugned Ext. P1 order passed by the Kerala Administrative Tribunal in T.A. No. 365 of 2012 (W.P. (C) No. 4568 of 2005) and

Annexure-A1(a) order passed by the said Tribunal in T.A. No. 5635 of 2012 (W.P. (C) No. 9467 of 2010) are set aside.

2) Exhibit P2 in T.A. No. 365 of 2012 (W.P. (C) No. 4568 of 2005) issued by the Government rejecting the claim of the petitioner in O.P.

(KAT) No. 770 of 2013 for computing his past service in the KSRTC as qualifying for pension is quashed. Exts. P1 and P2 orders in T.A. No.

5635 of 2012 (W.P. (C) No. 9467 of 2010) issued by the Government rejecting the claim of the petitioner in O.P. (KAT) No. 1570 of 2013 for

computing his past service in the Khadi and Village Industries Board as qualifying for pension is quashed.

3) It is declared that the petitioner in O.P. (KAT) No. 770 of 2013 is entitled to count his past service in the KSRTC from 26-03-1974 to 21-06-

1981 and the petitioner in O.P. (KAT) No. 1570 of 2013 is entitled to count his past service in the Khadi and Village Industries Board from 05-

09-1981 to 23-12-1983 as qualifying service along with the service rendered by them under the Government of Kerala for the purpose of

computing their pensionary benefits.

4) The respondents concerned are directed to count the past service of the petitioners in the KSRTC and in the Khadi and Village Industries

Board as qualifying service along with the service rendered by them under the Government of Kerala for the purpose of computing their pensionary

benefits.

5) The respondents concerned shall revise the pensionary benefits of the petitioners in the light of the directions issued in this judgment within two

months from the date of receipt of a copy of this judgment. The arrears of pensionary benefits payable to the petitioners shall be disbursed to them

within two months of such revision of their pensionary benefits.

These Original Petitions are allowed as above.