



OP (KAT) NO. 380 OF 2025

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2025:KER:71387

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 25TH DAY OF SEPTEMBER 2025 / 3RD ASWINA, 1947

OP (KAT) NO. 380 OF 2025

AGAINST THE ORDER DATED 26.08.2025 IN OA NO.518 OF 2025 OF
KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER/APPLICANT:

DR. DIVYA SADASIVAN
AGED 51 YEARS
W/O. DR. PREMJIITH, WORKING AS ASSISTANT DIRECTOR OF
HEALTH SERVICES, HEALTH & FAMILY WELFARE DEPARTMENT,
PRESENTLY WORKING AS DEPUTY SUPERINTENDENT AT GENERAL
HOSPITAL, THIRUVANANTHAPURAM- KERALA. RESIDING AT 5C,
WELFARE PEARL RESIDENCY, ULLOOR, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM, PIN - 695011.

BY ADVS.
SHRI.SAJU JOHN
SRI.V.VARGHESE
SRI.JELSON J.EDAMPADAM

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, HEALTH &
FAMILY WELFARE DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.
- 2 DIRECTOR OF HEALTH SERVICES
DIRECTORATE OF HEALTH SERVICES, GENERAL HOSPITAL
JUNCTION, THIRUVANANTHAPURAM, PIN - 695035.
- 3 DISTRICT MEDICAL OFFICER (HEALTH)
OFFICE OF THE DISTRICT MEDICAL OFFICER (HEALTH),
GENERAL HOSPITAL JUNCTION, THIRUVANANTHAPURAM,
PIN - 695035.



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OTHER PRESENT:

SRI. B. UNNIKRISHNA KAIMAL, SR. GP.

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 15.09.2025, THE COURT ON 25.09.2025 DELIVERED THE
FOLLOWING:

**"CR"****JUDGMENT****Muralee Krishna, J.**

The applicant in O.A.No.518 of 2025 on the file of Kerala Administrative Tribunal, Thiruvananthapuram, filed this original petition, invoking the supervisory jurisdiction of this Court, under Article 227 of the Constitution of India, challenging the order dated 26.08.2025 passed by the Tribunal in that original application.

2. Going by the averments in the original application, the petitioner was appointed as Assistant Surgeon in the Health Services Department as per Annexure A1 appointment order dated 10.02.2006 of the 2nd respondent Director of Health Services, and she joined duty on 16.02.2016. The petitioner submitted option for placement to the administrative cadre-Branch A as prescribed under Rule 5 of Kerala Health Services (Medical Officers) Special Rules, 2010 ('Special Rules' in short), which came into force with effect from 01.01.2007, by virtue of Annexure A2 Government Order dated 17.02.2010. The petitioner was accordingly included in the seniority list of the administrative cadre and placed as Junior Administrative Medical Officer as per Annexure A3 order of the 2nd respondent dated 12.10.2015. She



was undergoing her Post Graduation Diploma in Orthopaedics at the relevant time and therefore, she was allowed to continue her Post Graduation course. She rejoined duty after completing Post Graduation on 08.07.2016. Thereafter, she was promoted as Assistant Director of Health Services as per Annexure A4 order dated 11.10.2017.

2.1. Subsequently, the petitioner submitted option for placement to Branch C Speciality cadre for a posting as Junior Consultant in Orthopaedics. However, she was not given placement in the Speciality Cadre as her turn did not arise for a period of 8 years. Now the 2nd respondent issued Annexure A5 circular dated 15.03.2025, including the petitioner in the list of Medical Officers eligible for placement as Junior Consultant in Orthopaedics as Sl.No.1 and required her to submit relevant certificates to prove the qualification on or before 20.03.2025 through proper channel. Contending that the petitioner, who has been performing the duties and responsibilities of her posts in the Administrative branch for the last eight years is out of touch with the clinical and surgical aspects of Orthopaedics, she submitted Annexures A6 and A7 relinquishment letters dated 17.03.2025 before the 1st and 2nd respondents, temporarily relinquishing her



right for placement as Junior Consultant in Orthopaedics in the Speciality Cadre for a period of one year and requested to exempt her being considered for placement under Speciality Cadre for the time being. Apprehending that the petitioner will be placed in the Speciality Cadre without submitting any of the documents as required in Annexure A5 circular and disciplinary proceedings will be initiated against her for not submitting such documents, she approached the Tribunal with the original application filed under Section 19 of the Administrative Tribunals Act, 1985, seeking a declaration that the petitioner is not liable to be placed as Junior Consultant in Orthopaedics under the Speciality Cadre in Branch C as she was already placed in the Administrative cadre - Branch A through Annexure A3 order and she has no further option for placement in any other Branch as per Special Rules and consequently to set aside the proceedings that places the petitioner in the Speciality Cadre - Branch C.

3. In the O.A., the 2nd respondent filed a statement dated 28.03.2025 opposing the reliefs sought in the original application. It is contended by the 2nd respondent that the petitioner had studied her PG Course under Health Services Departmental Quota for the year 2014 by availing the deputation benefit as per



Annexure R2(a) Government Order dated 08.03.2016. As per Annexure R2(b) Order dated 14.08.2017, the Government has directed that those who availed deputation benefits shall immediately, after completion of deputation (Service Quota PG) opt the Speciality Cadre, in which they have specialised. On the basis of the Special Rules, the petitioner had submitted option for placement as Junior Consultant in Orthopaedics. As per the seniority list 2017 of Junior Consultant Orthopaedics, the petitioner is the next eligible incumbent to be placed as Junior Consultant under Orthopaedics.

3.1. It is further contended by the 2nd respondent that the Special Rules were published in the official gazette vide, SRO No.166/2010 dated 17.02.2010. In Rule 10 of the said Rules, it is specified that those Medical Officers in Administrative Cadre/General Cadre, who acquire Post Graduate Diploma/Post Graduate Degree/Diploma in National Board or equivalent qualification in various Specialities while in service will be allowed to opt to the Speciality Cadre once, irrespective of the post they are holding and they shall be considered for placement as Junior Consultant in Speciality Cadre for protecting their pay and



allowances last drawn. Rule 6 of Annexure A2 special rules insists that the Option once exercised shall be final.

4. In the original application, the petitioner relied on Annexure A9 final order dated 25.06.2024 in O.A.Nos.300 and 392 of 2024 passed by the Tribunal directing the respondents to act upon the relinquishment letters submitted by the applicants in those original applications in tune with Rule 38 of Part II of Kerala State and Subordinate Service Rules ('KS&SSR' for short) declaring that rejection of relinquishment letters on the ground that Special Rules prohibited such relinquishment since the options submitted as per Rule 6 of the Special Rules, is unsustainable. In the statement filed by the 2nd respondent, it was contended that against Annexure A9 common order of the Tribunal, Government preferred O.P.(KAT)Nos.420 of 2024 and 422 of 2024 before this Court and the Division Bench of this Court in Annexure R2(c) judgment dated 19.03.2025 upheld the position that placement cannot be relinquished under Rule 38 Part II KS&SSR in the light of the Special Rules and set aside Annexure A9 common order.

5. After considering the rival contention, the Tribunal, by the impugned order dated 26.08.2025, dismissed the original



application. Being aggrieved, the petitioner is now before this Court with this original petition.

6. Heard the learned counsel for the petitioner and the learned Senior Government Pleader.

7. The learned counsel for the petitioner would argue that in terms of the Special Rules, a Doctor in the Health Services Department can make only one option for change of cadre, which is irrevocable. The petitioner had made that option to go over from General Cadre to Administrative Cadre, and by accepting that option, she was appointed as Junior Administrative Medical Officer in October 2015. She made a wrong second option in January 2017 to be appointed as Junior Consultant in the Speciality Cadre. She is not bound by that wrong option, and only for the reason that she made such an option, she cannot be estopped from relinquishing the same, as it is settled law that there cannot be an estoppel against statutes. The Tribunal failed to appreciate the fact that Annexure R2(b), Government Order, cannot supplant the positive mandate of Rules 5 and 6 of the Special Rules. The Tribunal failed to appreciate the fact that the protection of pay granted in Rule 10 of the Special Rules is limited for a given pay revision period. Rule 10 gives only a relaxation to the rigour of



Rule 6, so as to enable the P.G.Degree/Diploma-acquiring Doctors to go over to the Speciality Cadre by way of a concession. It cannot be applied to the case of persons like the petitioner, who does not want to go over to the Speciality Cadre in the changed circumstances of having obtained promotion in the opted cadre and who has been out of touch with the clinical area for over a decade.

8. The learned Senior Government Pleader would submit that as per Rule 10 of Annexure A2 Special Rules, those Medical Officers in Administrative Cadre/General Cadre who acquire Post Graduate Diploma/Post Graduate Degree/Diplomate in National Board or equivalent qualification in various Specialities while in service shall be allowed to opt to the Speciality Cadre once, irrespective of the post they are holding and they shall be considered for placement as Junior Consultant in Speciality Cadre by protecting their pay and allowances last drawn. As per Clause 10 of Annexure R2(b) Government Order dated 14.08.2017, those who availed deputation benefits shall immediately after completion of deputation opt the Speciality Cadre in which they have specialised. The petitioner availed the deputation benefit and completed her P.G.Course during the period from 08.07.2014 to



07.07.2016 by way of Annexure R2(a) order dated 08.03.2016, and hence cannot later disown Annexure R2(b) Government Order. Going by Rule 6 of Annexure A2 Special Rules, Rule 38 Part II of KS&SSR is not applicable to the case of the petitioner.

9. The scope of interference by exercising the supervisory jurisdiction under Article 227 of the Constitution of India was considered by the Apex Court in **M/s Estralla Rubber v. Dass Estate Pvt.Ltd. [(2001) 8 SCC 97]** and held that the order under challenge can be set aside by the High Court under Article 227 of the Constitution of India if the findings are based on no evidence at all or are also perverse that no reasonable person could come to such conclusion.

10. We have carefully perused the materials on record and the order of the Tribunal. Since the issue involved in this original petition is centred around Annexure A2 Special Rules and the subsequent Annexure R2(b) Government Order, it would be relevant to extract Rules 5, 6, 7 and 10 of Annexure A2 for a better understanding of the contentions of the parties. The said Rules read thus:

"5. *Option for placement* :- Option for placement in Administrative Cadre-Branch A and Speciality Cadre-Branch C and Public Health Lab. Cadres-Branch D(a) and (b) shall be exercised by the



Assistant Surgeons/Assistant Dental Surgeons of Branch B during the period of probation itself.

6. Option once exercised shall be final.

7. Those Assistant Surgeons who have not exercised their option to any of the cadres during probation period or later shall be deemed to have continued in the entry cadre Branch B-General Cadre.

8. Xxxx xxxx xxxx xxxx.

9. Xxxx xxxx xxxx xxxx

10. Those Medical officers in Administrative cadre / General cadre who acquire Post Graduate Diploma/Post Graduate Degree/Diplomate in National Board or equivalent qualification in various Specialities while in service shall be allowed to opt to the Speciality cadre once, irrespective of the post they are holding and they shall be considered for placement as Junior Consultant in Speciality Cadre by protecting their pay and allowances last drawn. However at the time of first implementation of the Speciality cadre, placement will be given in the corresponding or higher cadres in Speciality as eligible, for those Medical officers who were in service as on 31st December, 2006 and who acquire prescribed Post Graduate qualification within such cut off date as ordered by the Government."

11. The petitioner, who had joined the General Cadre as Assistant Surgeon, exercised her option for placement to Administrative Cadre - Branch A, as per Rule 5 of Annexure A2. While she was working in the Administrative Cadre, she applied for deputation benefits to complete her post-graduation. By Annexure R2(a) order dated 08.03.2016, she was permitted to complete her Post Graduation by availing the deputation benefits.



She completed her post-graduation and rejoined duty on 08.07.2016. Subsequently, Annexure R2(b) Government Order dated 14.08.2017 was issued in respect of persons who availed deputation benefits for completing their Post Graduation.

Paragraphs 10, 11 and 14 of Annexure R2(b) read thus:

"10. Those who avail deputation benefits shall immediately after completion of deputation opt the speciality cadre in which they have specialised.

11. Those who have already received deputation benefits and have not opted to their specialities are to exercise the same within a period of one month from the date of issue of this Government Order, failing which their period of deputation will not be counted for service and pensionary benefits.

12. Xxxx xxxx xxxx xxxx

13. Xxxx xxxx xxxx xxxx

14. Those who discontinue the course on any reason/do not opt for the speciality within a period of one month after completing the course/resign from service or take voluntary retirement/leave the service to take up another appointment elsewhere or for any other reason before completing mandatory period of service will be liable to pay as liquidated damage an amount equal to the total salary admissible to the officer during the entire period of obligatory service of 5 or 7 or 10 or 12 years as the case may be after completing the course. The salary/stipend drawn during the course along with interest @ 8% will also be recovered towards liquidated damages. In order to arrive at the future salary, a hike of 25% on the existing salary will be effected in quinquennial pay revision taking place during the obligatory period. In the event of violation of this clause, the fact will be reported to the Medical Council for necessary action and his/her service will be terminated



by following the procedure under the Kerala Civil Services (Classification Control and Appeal) Rules.”

12. After rejoining duty, the petitioner opted for her placement in the Speciality Cadre. However, the 2nd respondent issued Annexure A5 circular, by including her in the rank list after eight years, for the reason that her turn did not arise.

13. The petitioner is now claiming the benefit of Rule 6 of Annexure A2, which says that the option once exercised shall be final. According to the petitioner, she had initially opted the Administrative Cadre from the General Cadre and hence her second option to move from the Administrative Cadre to the Speciality Cadre is void. Though the petitioner relied on Annexure A9 order of the Tribunal in O.A.Nos.300 and 392 of 2024, it is evident that by Annexure R2(c) judgment, this Court has set aside Annexure A9 order of the Tribunal. Therefore, the petitioner cannot place reliance on Annexure A9 order of the Tribunal dated 25.06.2024 in O.A.Nos.300 and 392 of 2024 to contend that Rule 6 of the Special Rule was held as unsustainable by the Tribunal.

14. A combined reading of Rules 5, 6 and 10 of Annexure A2 Special Rules would show that Rule 6 is applicable only in the case of an option exercised under Rule 5 by the Assistant Surgeons/Assistant Dental Surgeons of Branch B during the



period of probation itself. Rule 10, which provides one time option to the Medical Officers in Administrative Cadre/General Cadre who acquire Post Graduate Diploma/Post Graduate Degree/Diplomate in National Board or equivalent qualification in various Specialities while in service, to move to the Speciality Cadre is in addition to the option mentioned in Rule 5. The situation contemplated in Rule 10 is a special situation, and hence it cannot be said that the option to be exercised in Rule 5 includes the option that is mentioned in Rule 10. The right given under Rule 10 is an one-time special right that was granted to the persons who acquired additional qualification, in addition to the option to be exercised generally by all Doctors.

15. The petitioner exercised her option to move to the Speciality Cadre as provided under Rule 10 of Annexure A2 Special Rules. In such circumstances, the petitioner cannot be heard to say that she, having already exercised the one-time option to move from one Cadre to another, cannot exercise the option for the second time to be placed in the Speciality Cadre. Moreover, it is pertinent to note that the petitioner did not challenge Annexure R2(b), Government Order, in the original application, which made such option of change of Cadre mandatory.



16. As rightly found by the Tribunal, Rule 10 of Annexure A2 Special Rules protects last drawn pay and allowances to the persons who are opting Speciality Cadre from the Administrative Cadre. Having considered the pleadings and materials on record and the submissions made at the Bar, we find no reason to say that the order passed by the Tribunal is perverse or illegal, which warrants interference of this Court by exercising the supervisory jurisdiction under Article 227 of the Constitution of India.

In the result, the original petition stands dismissed.

Sd/-

ANIL K. NARENDHAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

DSV/-

APPENDIX OF OP(KAT) 380/2025

PETITIONER ANNEXURES

Exhibit P1	A TRUE COPY OF O.A. NO. 518/2025 ON THE FILE OF THE KERALA ADMINISTRATIVE TRIBUNAL (KAT), THIRUVANANTHAPURAM, DATED 22.08.2025.
Annexure A1	TRUE COPY OF THE RELEVANT PAGES OF ORDER NO. EA3/131658/2005/DHS DATED 10/02/2006 OF THE 2ND RESPONDENT
Annexure A2	TRUE COPY OF SPECIAL RULES ISSUED AS PER GO(P) NO. 69/10/H&FWD DATED 17/02/2010 OF GOVT. OF KERALA.
Annexure A3	TRUE COPY OF THE ORDER NO. EA2-1212/2015/DHS DATED 12/10/2015 OF THE 2ND RESPONDENT.
Annexure A4	TRUE COPY OF THE GO(RT) NO. 2803/2017/DHS DATED 11/10/2017 OF GOVT. OF KERALA.
Annexure A5	TRUE COPY OF THE CIRCULAR NO. EA2-7192/2025/DHS DATED 15/03/2025 OF THE 2ND RESPONDENT.
Annexure A6	TRUE COPY OF THE RELINQUISHMENT LETTER DATED 17/03/2025 SUBMITTED BY THE APPLICANT BEFORE THE 1ST RESPONDENT.
Annexure A7	TRUE COPY OF THE RELINQUISHMENT LETTER DATED 17/03/2025 SUBMITTED BY THE APPLICANT BEFORE THE 2ND RESPONDENT ALONG WITH FORWARDING LETTER NO. A1-1912/25/DMO DATED 18/03/2025 OF THE 3RD RESPONDENT.
Annexure A8	TRUE COPY OF GO(P) NO. 39/91/P&ARD DATED 07/12/1991 OF GOVT. OF KERALA.
Annexure A9	TRUE COPY OF THE COMMON FINAL ORDER DATED 25/06/2024 IN OA NO. 300 & 392 OF 2024 OF THE HONORABLE KAT, THIRUVANANTHAPURAM.
Exhibit P2	TRUE COPY OF THE 2ND RESPONDENT FILED REPLY STATEMENT DATED 28.03.2025.
Annexure R2(a)	TRUE COPY OF THE G.O(RT) NO.812/2016/H&FWD DATED 08.03.2016.
Annexure R2(b)	TRUE COPY OF THE G.O(P) NO.106/2017/FIN DATED 14.08.2017.
Annexure R2(c)	TRUE COPY OF THE JUDGMENT IN OP(KAT) NO.420/2024 DATED 19.03.2025.



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Exhibit P3

TRUE COPY OF THE PETITIONER FILED A
REJOINDER, DATED 16.07.2025.

Exhibit P4

A TRUE COPY OF THE ORDER DATED 26.08.2025 IN
O.A.518/2025 OF THE KERALA ADMINISTRATIVE
TRIBUNAL.