

(2012) 05 KL CK 0030

In the High Court Of Kerala

Case No : W.A. No"s. 890, 891, 894 of 2012 and W.P. (C) No"s. 10931 and 10953 of 2012

Abhilash, V. S.

APPELLANT

Vs

Kerala High Court and another

RESPONDENT

Date of Decision : 11-05-2012

Acts Referred:

Citation : (2012) 2 ILR (Ker) 679 : (2012) 2 KLJ 803

Hon'ble Judges : K. T. Sankaran, J;K. Harilal, J

Bench : Division Bench

Advocate : Jacob Abraham, Sri M. A. Abdul Hakhim, Sri Shaijan C. George, Smt. S. Rekha Kumari and Sri Kaleeswaram Raj, for the Appellant; K. R. B. Kaimal (Senior Advocate), for the Respondent

Final Decision : Dismissed

Judgement

Sankaran, J.—Since the questions involved in the three writ appeals and in the two writ petitions are identical, these cases were heard together and they are being disposed of by this common judgment The writ appeals were filed by the writ petitioners in the respective writ petitions. Hereinafter, the appellants in the three Writ Appeals are also being referred to as petitioners.

2 The petitioners applied for selection to the post of Munsiff Magistrate in the Kerala Judicial Service pursuant to the notification dated 31-1-2012. A candidate has to fill up the prescribed application form. Clauses (g), (h), (k) and (m) of paragraph 15 of the notification read as follows:

(g) All the columns should be filled up by the candidate in his/her own hand. Do not fill up any column by dashes or dots or any other marks or leave any column blank. If any column is not applicable, write "not applicable" against that particular column.

(h) Full and correct information shall be furnished against every column. Furnishing of false or incorrect information or suppression of material information

will disqualify the candidate at any stage of selection. Anything not specifically claimed in the application against the appropriate column will not be considered at a later stage.

(k) No alteration or modification of entries in the application form shall be permitted after the same is submitted to the Registrar and any request in this regard shall render the application invalid.

(m) Applications which do not comply with the instructions shall be rejected.

3. The applications submitted by the petitioners were rejected since some of the columns in the application forms were not filled up by the respective candidates. Columns 25, 26 and 27 in the application form are relevant for the purpose of these cases. They read as follows:

25 Have you been employed on a regular or temporary basis under Central or State Government or any Quasi-Government Institution or any Government owned Company or Corporation or Local Self-Government Institution? If yes, give particulars of such employment

Designation

Scale of Pay

Period of Service From To

Name and Address of Office

26 (a) Have you been debarred from recruitment in Public Services? If yes, give details.

(b) Have you been dismissed from service of Central or any State Government or from any Quasi-Government Institution or by Government owned Company or Corporation or any Local Self-Government Institution? If yes, give details.

(c) Have you been prosecuted or convicted for any criminal offence? If yes give particulars.

No. of Case

Name of Court/Police Station

Offence Charged

Status of the Case

(d) Is any Criminal case pending against you? If yes, give particulars

No. of Case

Name of Court/Police Station

Offence Charged

Status of the Case

(e) Furnish details of civil proceedings, if any, pending or disposed, by or against you.

No. of Case

Name of Court

Status of the Case

(f) Were you subjected to any proceedings for professional misconduct by the Bar Council and if so, the outcome of the same

(g) Is any disciplinary proceedings/ vigilance enquiry initiated or contemplated against you? If so, give particulars

27 Were you a candidate for selection of Munsiff-Magistrate earlier? If yes, give particulars

4 In these five cases, the respective applicants did not fill up the aforesaid columns or some of the columns. These columns were left blank in the applications. Accordingly, the applications were rejected.

5. In the writ petitions in the three cases from which the Writ Appeals arose, the learned Single Judge rejected the prayer for an interim order to permit the writ petitioners to appear for the written test scheduled to be held on 13-5-2012. Challenging those orders, the three Writ Appeals are filed

6 In the case of the two writ petitions, the learned Single Judge before whom the cases came up for admission posted the writ petitions before the Division Bench for the purpose of considering the same along with Writ Appeals.

7. The learned Counsel appearing for the petitioners contended that the information to be supplied in paragraphs 25, 26 and 27 or any one of them are not so vital and non compliance of the same should not result in rejection of the application. The Counsel relied on the decision of the Supreme Court in Union Public Service Commission Vs. Gyan Prakash Srivastava, In that case, UPSC rejected the application of the writ petitioner on the ground that he did not enclose the necessary document to show that he was a Law Graduate. The applicant was a practicing lawyer and he applied for the post of Legal Adviser-cum- Standing Counsel for UPSC. Since the necessary document was not supplied, the application was rejected. The Tribunal set aside the order of rejection and allowed the applicant to cure the defects. The order of the Tribunal was upheld by the High Court and by the Supreme Court. The Supreme Court held, on the facts of that case, that the decision rendered by the Tribunal and the High Court were correct. It was held that a person could be enrolled as an Advocate unless he obtained a Degree in Law after undergoing the three year course of study in law. The applicant in that case had attached with this application the certificate issued by the Bar Council of Uttar Pradesh. It was held

by the Supreme Court that the Bar Council must have issued the certificate keeping in view of the fact that the applicant possessed Degree in Law awarded by a University recognized by the Bar Council of India. The facts in Gyan Prakash Srivastava's case are entirely different from the facts obtained in the present case.

8 The Counsel relied on the decision in Manoj Kumar v. Kerala Public Service Commission 1999 (2) KLT 534. In that case, the Kerala Public Service Commission permitted about 300 candidates to cure the defects in the application submitted by them. That was challenged by a candidate. This Court upheld the decision taken by the Kerala Public Service Commission.

9 The Counsel for the petitioners relied on the unreported judgment in Deepa Rajan v. Registrar (Administration), High Court of Kerala W.P.(C). No. 14442 of 2011 in and in Lekha R. v. The Registrar (Subordinate Judiciary), High Court of Kerala W.A.No. 35 of 2010 in. In the former case the learned Single Judge of this Court quashed the order of rejection of the application for selection to the post of Munsiff Magistrate and permitted the candidate to rectify the defect. The defect was that designation of the attesting officer was not shown in the application.

10 In the latter case, Higher Secondary School Examination Certificate produced by the applicant was attested by a person not authorized to attest. The Division Bench held that the application could not be returned for curing the defect and it was held that the rejection of the application was proper.

11 Sri K.R.B. Kaimal, the learned Senior Counsel appearing for the respondents relied on the decision of the Division Bench in Raina Johnny v. Registrar, High Court of Kerala W.A.No. 387 of 2012 in wherein the applicants were expected to make on line application. In the application submitted by the particular candidate, the photograph in original was not affixed. A photocopy of the application in which the photograph was affixed was submitted. The application was rejected. The rejection of the application was upheld by the Division Bench. The arguments put forward by the learned Counsel for the petitioners that the omission was only a minor omission and that it does not warrant rejection of the application, is not sustainable. Very vital informations were sought for. Appointments are to be made to the post of Munsiff Magistrates. They have to discharge judicial functions. Several important data were sought to be collected by providing questions in the different columns. Answers to the questions would be quite relevant for considering the suitability of the candidate. By giving no answer to the questions in the aforesaid columns, the petitioners did not provide the adequate information for processing the applications. We are of the view that the applications were rightly rejected. The learned Single Judge was right in declining interim relief in the three cases mentioned above.

For the aforesaid reasons, the Writ Appeals and the Writ Petitions are dismissed.