

(2001) 11 KL CK 0083
In the High Court Of Kerala
Case No : O.P. No. 21643 of 1998

Achuth Raj Meloth

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 12-11-2001

Acts Referred:

Constitution of India, 1950 — Article 318
Kerala Public Service Commission (Composition and Conditions of Service of Members and Staff) Regulations, 1957 — Regulation 4

Citation : (2001) 11 KL CK 0083

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : Kesavan Kutty, for the Appellant; Percy Joseph, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—The petitioner was a member of the Public Service Commission. He served the Commission for six years and he vacated the office. Later the pension of the members of PSC was revised at the request of the Chairman and members as per Ext. P1. Thereupon one is entitled to get pension of Rs. 250/- per completed year of service. This was later revised as Rs. 350/- as per Ext. P2. It was made clear in both the Government Orders that no D.A. will be granted to pensioners. The maximum pension was Rs. 1500/-, which was revised to Rs. 2100/- as per Ext. P2 the petitioner is aggrieved by Exts. P1 and P2 in so far as the said orders deny payment of D.A. The petitioner submits that this is discriminatory as compared by Ext. P12 notification to the extent. It provides for payment of gratuity of the Chairman and members.

2. Payment of D.a. and payment of gratuity are different things. Merely because gratuity is made payable in terms of Ext. P12, that does not ipso facto entitle him to claim the benefit of D.A. Therefore that contention does not hold good. Petitioner further submits that Exts. P1 and P2 are offending proviso Article 318

of the Constitution of India. The said proviso reads as follows:

"Provided that the conditions of Service of a member of Public Service Commission shall not be varied to his disadvantage after his appointment."

Article 318 of the Constitution provides for conditions of service of members of Public service Commission. This is in respect of a member who continues to be so therefore that has no application to the petitioner who has retired. Even if it is said to have any application, no disadvantageous variation has been ordered as per Exts. P1 and P2. In the matter of payment of pension, the petitioner is not deprived of anything. Therefore, Exts. P1 and P2 is in no way prejudicial to the petitioner.

3. The further contention raised by the petitioner is that Exts. P1 and P2 is violative of Rule 4 of the Kerala Public Service Commission (Composition and Conditions of Service of Members & Staff) Regulations, 1957. The said rule reads as follows:

"There shall be paid to the Chairman a salary at the rate of five thousand two hundred and eighty-five rupees per mensem and to other members at the rate of four thousand seven hundred and eighty-five rupees per mensem. The Chairman and other members shall also be paid Dearness Allowance and City Compensatory Allowance at the rates admissible to the officers of the State Government drawing equivalent pay".

This is provision applicable to those serving as Chairman and members. They will be paid D.A. Merely because those who serve the office are paid D.A., it cannot be claimed that D.A. shall be paid to those who had vacated the office. Therefore Exts. P1 and P2 do not offend Regulation 4 as contended by the petitioner.

4. Apart from that there is another hurdle also to be crossed by the petitioner. This Original Petition was filed in the year 1998. Ext. P1, one among the impugned order was passed in the year 1988 and another Ext. P2 was passed in the year 1994. The petitioner is guilty of laches too.

5. The Original Petition fails. It is dismissed.