

(2001) 03 KL CK 0040
In the High Court Of Kerala
Case No : O.P. No. 7184 of 1997

Anand

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 27-03-2001

Acts Referred:

Citation : (2001) 1 KLJ 745

Hon'ble Judges : M.R. Hariharan Nair, J

Bench : Single Bench

Advocate : P. Ramakrishnan, for the Appellant; Alexander Thomas, Govt. Pleader, for the Respondent

Judgement

M.R. Hariharan Nair, J.—The grievance of the petitioner, who is the son of late Sri. C.K. Raman, who was a Physical Education Teacher in the GLPS, Kodaly, is that the application for appointment presented by him under the dying-in-harness scheme was returned without consideration vide Ext. P1.

2. Sri. Raman completed 55 years of age on 27.8.1995 and as such would have normally retired from service on that day. However, by operation of R. 60(c) Part I of the KSR he was continuing and was entitled to continue in service until 31.3.1996. It was during this extended period that death occurred to him. The question involved here is whether the Government was right in refusing to entertain the application on the ground that the death having taken place after the normal date of retirement, the dependent is not entitled to get the benefits contemplated in the dying in harness scheme.

3. The stand taken in the counter is that R. 60(c) Part I of the K.S.R. is only an enabling provision and that notwithstanding the continuance of the incumbent after the normal date of retirement he will not be treated as a Government servant in service for the purpose of dying-in-harness scheme.

4. The said question was considered by a Bench of this Court in Sirajudeen v. Director of Public Instruction 1994 (1) KLT 361 and it was found by this Court

that notwithstanding the fact that a Government servant has completed 55 years of service, he will be deemed to be a Government servant for the purpose of the said scheme provided death takes place during the period of actual continuance albeit invoking the benefit in R. 60(c) Part I of the K.S.R.

5. During hearing today, the learned counsel for the petitioner brought to my notice G.O.(P) No. 1/98/P & ARD dated 5.1.1998 which shows that the Government has accepted the finding in the decision aforesaid as correct and decided to implement the same. It was declared that the dependents of the teaching staff of all educational institutions including Principals of colleges who on completion of the age of 55 years during the course of an academic year, continue in service under R. 60(c) Part I of the K.S.R. till the last day of the month in which the academic year ends and who die during the period of such continuance will be eligible for the employment assistance under the compassionate Employment Scheme. In view of the said Government Order, the petitioner, undoubtedly, is entitled to be considered for appointment under the aforesaid Scheme.

6. The Original Petition is hence allowed and the petitioner is allowed to represent his application which was originally returned as per Ext. P1 to the authority concerned citing the G.O.(P) No. 1/98/P & ARD dated 5.1.1998 supported by additional application forms, if any, required under the present Rules within a period of one month from this date. Alternatively, the petitioner may present a fresh application in accordance with the present Rules within the aforesaid time limit. If any such application is filed, it will be dealt with, considered and disposed of treating it as a valid application filed within time and on the merits and appropriate decision taken through a speaking order. Such a decision will be taken within a period of 4 months from the date on which the Government receives a fresh application from the petitioner.

7. The Original Petition is disposed of as above.