
(2000) 06 KL CK 0016
In the High Court Of Kerala
Case No : O.P. No. 15903 of 2000

Aneesh and Others

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 16-06-2000

Acts Referred:

Constitution of India, 1950 — Article 320

Citation : (2000) 2 KLJ 258

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

Bench : Single Bench

Advocate : K.B. Suresh, for the Appellant; P.V. Asha (Govt. Pleader), for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor

1. Admittedly the petitioners are temporary appointees under Rule 9(a)(i) of the general rules in the Kerala State and Subordinate Service Rules, as per Ext.PI, as Junior Health Inspectors. That appointment is for 179 days or until the regular hands recruited by the Public Service Commission report for duty. Thus it is in tune with the provisions contained in Rule 9(a)(i). Petitioners have approached this court seeking a direction to compel the respondents to allow them to continue in service till 29-12-2000. According to them, Government have extended the period of temporary appointments and that the Municipalities have also accepted that decision of Government by adopting resolutions. But it is not in dispute that the Rule that has to be followed in the matter of temporary appointments in Rule 9(a)(1) of the general rules of the K.S. & S.S.R. As per the second proviso to Rule 9(a)(i) a person appointed under this rule shall not be allowed to continue for a period exceeding 180 days. When this is the statutory provision no executive government can issue any circular to continue temporary hands beyond the period specified as per rules. It is further provided as per 9th proviso to rule 9(a)(i) that a temporary appointee who had completed one term

cannot be re-appointed by the same appointing authority. When there is such a ban imposed as per the said rule, government cannot have any power to extend a temporary period of appointment unless there is no qualified hands. The petitioners have no case that there are no other qualified hands in the rolls of the Employment Exchanges. Moreover as per clause 5(1) of the Kerala Public Service Commission (Consultation) Regulations issued under Art. 320 of the Constitution, consultation is not made mandatory only for appointments for 179 days. That means to continue a temporary appointee beyond 179 days consultation with the Public Service Commission is mandatory. Consultation is necessary in case of each individual as per the said provision for continuance beyond 179 days. There is no case for the petitioners that such consultation has been made in this case. Subclause 2 thereof further speaks of concurrence to be obtained from the Public Service Commission for continuance of temporary appointees beyond 179 days. The petitioners have no case of any such concurrence also. In such circumstances, without consulting and obtaining concurrence from the Public Service Commission Government cannot direct to extend term of a temporary appointee.

Therefore the petitioners cannot get any relief as prayed for in this original petition. Accordingly, it is dismissed.