
(2002) 02 KL CK 0056
In the High Court Of Kerala
Case No : OP No. 17584 of 2002

A.V. Satheesh

APPELLANT

Vs

Kerala Public Service Commission

RESPONDENT

Date of Decision : 14-02-2002

Acts Referred:

Citation : (2002) 2 KLJ 926 : (2003) 1 KLT 976

Hon'ble Judges : K. Balakrishnan Nair, J

Bench : Single Bench

Advocate : V.P. Seemandini and M.R. Anison, for the Appellant; N. James Koshy and P.C. Sasidharan, for the Respondent

Judgement

K. Balakrishnan Nair

1. The short point that arises for consideration in this case is whether the community certificate furnished by the petitioner showing that he is a member of the Scheduled Caste could be accepted or not. According to the Public Service Commission, he did not produce the same in time and therefore it could not be accepted. The brief facts necessary for resolving the controversy are the following: The petitioner was an applicant for the post of Reserve Conductor in the KSRTC notified by the Public Service Commission. He is a member of the Scheduled Caste. He was successful in the written test. By Ext. P1 communication dated 11.4.2001, he was called for a physical efficiency test to be held on 27.4.2001 at the District Public Service Commission Office, Palakkad. In the said memo it was specified that the petitioner should produce the caste certificate necessary for claiming the benefit of reservation.

2. On getting such intimation, petitioner moved the Tahsildar for the issue of such a Certificate. But the Tahsildar did not issue the same in time. Therefore, he filed O.P. No. 13868/2001 on 23.4.2001, during the midsummer vacation of this Court. It was finally allowed on 4.5.2001 by Ext. P3 judgment directing the Tahsildar to issue the certificate as applied for by the petitioner. In the meantime,

petitioner claims, he submitted Ext. P2 representation requesting for three weeks" time to produce the community certificate. In the said representation, he also pointed out about the pendency of the Original Petition filed by him before this Court. Later, the petitioner received Ext. P4 certificate dated 22.5.2001 on 25.5.2001. Immediately he produced the said certificate before the Public Service Commission for accepting the same. But the Public Service Commission informed him that since the interview is already over, it is not in a position to consider the claim of the petitioner.

3. The Public Service Commission has filed a counter affidavit stating that as per paragraph 15D (1) of the General Conditions contained in the Gazette Notification, all essential certificates should have been produced by the last date of receipt of the application. It is pointed out that by way of concession, time was given upto the date of physical efficiency test. The petitioner is qualified only for inclusion in the supplementary list of SC/ST. If he was having merit for inclusion in the general list, his case would have been considered as a general candidate. So, according to the Public Service Commission, it is not willing to accept the caste certificate submitted belatedly. Petitioner has filed a reply affidavit reiterating his contentions.

4. The relevant statutory provision governing the production of caste certificate is Rule 17 C of Part II KS & SSR. The said Rule reads as follows:

The candidate claiming the benefit of age relaxation/reservation in appointments/special recruitments by virtue of being a member of the Backward Classes/Scheduled Castes/Scheduled Tribes as provided for in sub rules (c) and (d) of rule 10, rule 14, rule 17 A and rule 17 B ibid shall produce to the satisfaction of the Kerala Public Service Commission, Certificates/relevant documents as required by them, to prove the claim in the application and in any case, before the finalisation of the ranked list for the post concerned.

5. In the light of the said Rule, the caste certificates can be produced till the finalisation of the rank list for the post concerned. So, whatever be the conditions stipulated by the Public Service Commission in the notification, the same should be subject to the said Rule. Therefore, I am of the view that the Public Service Commission should have accepted Ext. P4 caste certificate, if the same was produced before the finalisation of the list. Counsel for the Public Service Commission points out that the date of finalisation of the list is not the date of notification of the list. It may be correct. But, from the pleadings, it is not clear which is the date of finalisation of the list. Therefore, I direct the Public Service Commission to reconsider the claim of the petitioner and accept his caste certificate Ext. P4, if the same was produced before the date of finalisation of the list. This the Public Service Commission shall do within three months from the date of receipt of a copy of this judgment. In case the caste certificate was produced before the finalisation of the rank list, petitioner shall be given appropriate place in the supplementary list of SC candidates and in case the petitioners' juniors in the supplementary list have been advised, petitioner shall

also be advised. Learned counsel for the PSC tried to raise a technical contention which is not pleaded in the counter affidavit that the prayers in the present Original Petition are barred by constructive res judicata. A am not inclined to go into the technical contention not raised in the counter affidavit. Such technical contentions cannot be accepted to reject the claims of a member of a Scheduled Caste for getting public employment.

The Original Petition is disposed of as above No costs.