
(2000) 08 KL CK 0008
In the High Court Of Kerala
Case No : O.P. No. 18722 of 2000

Dileep Kumar

APPELLANT

Vs

Kerala State Backward Classes Devt. Corpn.

RESPONDENT

Date of Decision : 07-08-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2000) 2 KLJ 482

Hon'ble Judges : C.S. Rajan, J

Bench : Single Bench

Advocate : G. Sukumara Menon, for the Appellant; M.K. Chandramohan Das, for the Respondent

Final Decision : Dismissed

Judgement

C.S. Rajan

1. The petitioner is aggrieved by the method now adopted by the respondent in the matter of appointments to various categories of posts by requisitioning the Employment Exchange for sponsoring candidates. The respondent is a Government owned Corporation. According to the petitioner, if the field of choice is restricted to those sponsored by the Employment Exchange, sons like the petitioner who had not registered their names with the Employment Exchange will lose their right to compete along with others for getting a job in the respondent Corporation. Therefore, according to the petitioner, it will be in violation of Articles 14 and 16 of the Constitution of India. For that purpose, the petitioner relies on a ruling of the Supreme Court reported in Excise Superintendent, Malkapatnam, Krishna District, A.P. v. K.B.N. Visweshwara Rao (AIR 1996 (6) SCC 216): On the other hand the learned counsel for the respondent relies on a later ruling of the Supreme Court reported in Arun Tewari and others v. Zila Mansavi Shikshak Sangh and others etc. (AIR 1998 S.C. 331).

2. In this connection, it is pertinent to point out that there are at least two other

rulings on the subject by the Supreme Court itself. In the ruling reported in *Union of India v. N.Hargopal* (AIR 1987 SC 1277), the Supreme Court upheld the Government instruction enjoining that the field of choice should, in the first instance, be restricted to candidates sponsored by the Employment Exchanges, as not offending Articles 14 and 16 of the Constitution of India. In the next ruling reported in *Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi and others*, , the Supreme Court approved the recruitment through Employment Exchange as a method of preventing malpractices.

3. In the third ruling which, is now relied on by the counsel for the petitioner, reported in *Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and Others*, , the Supreme Court held as follows :

It should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.

4. lit the latest ruling relied on by the learned counsel for the petitioner, reported in *(Arun Tewari and others v. Zila Mansavi Shikshak Sangh and others etc.* (AIR 1998 SC 331), the Supreme Court referred all these three rulings and held that there are different methods of inviting applications and the method adopted in the exigencies of situation, the present case cannot be labelled as unfair.

5. In this case, the respondent Corporation addressed all the Employment Exchanges in Kerala to sponsor the names of eligible candidates for selection and appointment to the post of Junior Assistants. 1855 names were received from various Employment Exchanges in the State. Thereafter, a written test was conducted wherein 1130 candidates appeared. The test was conducted by an outside agency. Those who passed the test and satisfied the cut off marks are now being called for interview. The selection process has reached the final stage. It is at this juncture, the petitioner has approached this court by filing this original petition. By considering the four rulings of the Supreme Court referred to above, I do not think that there can be a hard and fast rule with regard to the methods to be adopted in getting the names sponsored either by the Employment Exchange or by advertisement. As narrated above, on two occasions, the Supreme Court has upheld the appointments of candidates sponsored by Employment Exchanges. Of course, in the third ruling, the Supreme Court has only observed that more publicity can be achieved by inviting names other than through Employment Exchanges and by giving information to

the public by other media. But, that does not militate against the method of getting names from the Employment Exchanges. It cannot be said that inviting names from the Employment Exchange is illegal or unfair. It cannot also be said that by the above method any arbitrariness or favouritism will creep in. The candidates who are in the roll of the Employment Exchange are waiting for a long time to get opportunities for employment. There is nothing wrong or illegal in considering those names sponsored by the Employment Exchange in accordance with the seniority and priority. That will not result in denial of opportunity to those who did not register the names in the Employment Exchanges. Moreover, Employment Exchanges are in operation for a long time and they are premier agencies of recruitment of candidates for the State, other statutory Corporations and public sector undertakings. As per Ext.RI(a), the Government of Kerala also directed all the public sector undertakings to follow the procedure of addressing the Employment Exchange for sponsoring names for employment.

Therefore, it cannot be said that the method adopted by the respondent is either illegal or any way offends Articles 14 or 16 of the Constitution of India. The original petition is therefore, dismissed.