
(2000) 11 KL CK 0036
In the High Court Of Kerala
Case No : O.P. No. 8337 of 2000

Gopalakrishnan

APPELLANT

Vs

P.S.C.

RESPONDENT

Date of Decision : 09-11-2000

Acts Referred:

Kerala State and Subordinate Services Rules, 1958 — Rule 14, 15, 16, 17, 2(14)

Citation : (2000) 11 KL CK 0036

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

Bench : Single Bench

Advocate : Paravoor V. Venugopalan Nair, for the Appellant; T.P. Sajan, Government Pleader and O.V. Radhakrishnan, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—The petitioner admittedly belongs to "Chakkala Nair" community. He was an applicant to the post of Public Works Overseer Grade II in Municipal Common Service when the Public Service Commission notified direct recruitment to the said post. He was included as rank No. 81 in the rank list prepared by the PSC and published on 6.7.1999. The petitioner is not being advised giving the benefit of reservation available to other backward communities based on Ext. P2 certificate. Ext. P2 is a certificate to the effect that the petitioner belongs to "Hindu Chakkala (Chakkala Nair)". The petitioner therefore seeks direction to the P.S.C. "to treat "Chakkala and Chakkala Nair" community of Hindu Religion belongs to OBC category". So the issue involved in the Original Petition is whether the petitioner is entitled to caste reservation, following R. 14 to 17 of the General Rules in the K.S. & S.S. Rules in the matter of appointment to the post in question. R. 14(c) provides that appointment shall be made in the order of rotation specified therein among Open Competition, Other Backward Castes and Scheduled Castes and Scheduled Tribes. "Other Backward Class" is as defined in R. 2(14) of Part I Preliminary Rules of K.S. & S.S. Rules which provides that "Other Backward Classes" mean the classes

declared by as such by the State Government under 16(4) of the Constitution of India. List of such castes, tribes and classes so declared are included as List I, II and III respectively in the schedule to "this Part". Item 10 in List III "Other Backward Classes in Kerala State" is "Chakkala". The other items included are Agasa, Ambalakkaran, Anglo Indian, Aremahrati, Arya, Bandari, Billava, Chavalakkaran, Devadiga, Devanga, Dheerava, Ezhava, Thiyya, Gowda, Hegde, Mappila, Muslim etc. Nair is not included in that. So is "Chakkala Nair". Therefore a person belonging to Chakkala Nair as certified in Ext. P2 cannot claim the benefit available to the members of Chakkala community which is declared as one among the communities in the Other Backward Classes. The petitioner submits that the P.S.C. has issued Ext. P4 circular to the following effect.

"According to the practice till now followed in this office the Candidates who claim their community as Chakkala Nair are not given the benefit of Chakkala Community. The Commission have now examined the above aspect and they have ordered that the candidates who claim to belong to Chakkala Nair community will be treated as Chakkala for the purpose of reservation in public service. All sections and District Officers are therefore requested to comply with the above order and to see that the benefit of Chakkala community is given to Chakkala Nair also."

Therefore the petitioner being Chakkala Nair shall be regarded, following Ext. P4, as belonging Chakkala, which is included in Schedule III. This circular is dated 23.4.1977, whereas the present schedule mentioned above has been brought into statute book by a notification issued as SRO No. 324/78 published in Kerala Gazette dated 11.4.1978. It is a statutory provision. Necessarily the circular of the P.S.C., Ext. P4, cannot alter, vary or amend the schedule which forms part of the statute. Ext. P4 therefore cannot improve the case of the petitioner.

2. When the petitioner admittedly belongs, as certified in Ext. P2, to a community known as "Hindu Chakkala (Chakkala Nair)", he cannot be regarded as belonging to Chakkala community included in Other Backward Classes as per the schedule mentioned above and consequently the petitioner will not be entitled for the benefit arising out of that.

3. The Original Petition fails and is dismissed.