
(2022) 11 KL CK 0224

In the High Court Of Kerala

Case No : Original Petition (KAT) Nos. 380, 381, 382, 383, 384, 385 Of 2022

Kerala Public Service Commission

APPELLANT

Vs

Sarath Babu Police Constable Driver, PC 13066

RESPONDENT

Date of Decision : 18-11-2022

Acts Referred:

Citation : (2022) 11 KL CK 0224

Hon'ble Judges : A.K.Jayasankaran Nambiar, J; Mohammed Nias C.P., J

Bench : Division Bench

Advocate : P.C.Sasidharan, A.Aruna, Bijoy Chandran

Final Decision : Disposed Of

Judgement

A.K.Jayasankaran Nambiar, J.

1. As all these OP(KAT)'s involve a common issue they are taken up together for consideration and disposed by this common judgment.

2. These OP(KAT)'s have been preferred impugning a common interim order dated 16.11.2022 of the Kerala Administrative Tribunal in O.A.No.1601 of 2022 and connected cases. Briefly stated, the challenge in the Original Applications was against a notification dated 29.07.2022 issued by the Kerala Public Service Commission (hereinafter referred to as 'the PSC') publishing an eligibility list of candidates who were found provisionally eligible to appear for the category-wise main examination for selection to the post of Sub Inspector of Police (Trainee) that was notified by the PSC on 30.12.2019. The applicants before the Tribunal contended that the procedure of short listing candidates for drawing up an eligibility list of those candidates who were found provisionally eligible to appear for the main examination, was contrary to the notification calling for applications and that, as applicants who had responded to the notification, they were also equally entitled to appear for the physical test contemplated in the notification.

3. The Tribunal while considering the interim prayer in the application, which was

to permit the applicants also to provisionally appear in the main examination pending disposal of the original applications, found that the prayer for provisional appearance at the examination would have to be extended, not merely to the applicants before it, but to all those similarly situated as the applicants, and finding that to be impractical, opted for the course of deferring the main examination that is scheduled on 22.11.2022. It is aggrieved by the said interdiction by the Tribunal in the interim order that the PSC is before us through these Original Petitions.

4. We have heard Sri.P.C.Sasidharan, the learned counsel for the PSC as also Sri.M.R.Hariraj and Smt.Aruna on behalf of the applicants before the Tribunal.

5. On a consideration of the rival submissions, and in particular the judgments of the Supreme Court in *State of U.P. And Others v. Ram Sukhi Devi* [2005 KHC 1635] and *B.Ramakichenin @ Balagandhi v. Union of India and Others* [2008 KHC 4100], we are of the view that while determining the balance of convenience at this stage of the proceedings, especially when the PSC was all set to go ahead with the conduct of the main examinations, the tribunal ought to have taken into consideration the possible hardship that would enure to those candidates who have been found eligible to appear for the main examinations after having emerged successful in the preliminary examination conducted by the PSC. This is more so because we find that the even the applicants had not sought for deferring the conduct of the main examinations in their applications before the tribunal. Their prayer was only to provisionally permit them to participate in the main examinations. We are of the definite view that in situations like this the balance of convenience lies in permitting the PSC to proceed with the selection process, subject to the final decision of the tribunal in the pending O.A's.

6. Accordingly, we modify the impugned order of the Tribunal by making it clear that while the PSC can proceed with the selection process by conducting the main examination scheduled on 22.11.2022, the conduct of the said examination, and continuation with the further selection proceedings thereafter, shall be subject to the final order of the Tribunal in the pending Original Applications.

7. Taking note of the apprehensions voiced by the learned counsel appearing for the applicants before us, we make it clear that the directions in the impugned order of the tribunal, as regards the completion of the pleadings in the pending original applications, shall be strictly adhered to by the parties before the Tribunal and the Tribunal shall also endeavour to finally dispose the Original Applications within an outer time limit of three months from today.

With these directions, the OP(KAT)'s are disposed. By way of abundant caution, we make it clear that nothing in this judgment shall be construed as an expression of our views on the merits of the cases before the Tribunal, and all contentions are left open to be considered by the tribunal at the stage of hearing of the Original Applications.