
(2003) 02 KL CK 0038
In the High Court Of Kerala
Case No : O.P. No. 38260 of 2002

Mariamman Stephan

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 07-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 1 KLT 1011

Hon'ble Judges : Jawahar Lal Gupta, C.J.;Kurian Joseph, J

Bench : Division Bench

Advocate : M.A. Shafik, M.A. Fayaz and John Numpeli, for the Appellant; P.S. Sreedharan Pillai, S.C.G.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, C.J.—Has the Central Administrative Tribunal erred in rejecting the petitioners' claim for relaxation of the prescribed standards for promotion to the post of Junior Telecom Officers? This is the short question that arises for consideration in this petition. A few facts as relevant for the decision of this case may be briefly noticed.

2. In the year 1995-96, certain posts of Junior Telecom Officers had become available. In the year 1999, the Department took a decision to fill up these posts. A test for selection of suitable officers was held in May 1999. The petitioners who belongs to the category of Scheduled Tribes and are working as Senior Telecom Office Assistants, applied for permission to take the test. The authority granted the requisite permission. The petitioners appeared in the test. However, they failed to attain the prescribed minimum standard. Thus, they were not included in the list of qualified persons for promotion to the post of Junior Telecom Officers.

3. Aggrieved by the action of the authority, the petitioners approached the Central Administrative Tribunal. It was alleged inter alia that the action of the

authority was illegal. The Tribunal considered the matter. Keeping in view the provision contained in the proviso to Article 335 of the Constitution, the Tribunal held that the petitioners did not have any right to claim relaxation. Thus, the petition was dismissed. A copy of the order dated February 14, 2002 passed by the Tribunal has been produced as Ext. P10 with the petition. Aggrieved by this order, the petitioners have approached this Court through the present petition.

4. Mr. John Nampeli, learned counsel for the petitioners, has made a two-fold submission. Firstly, it has been contended that since the vacancies related to the year 1995, the amended provision which had come into existence on July 22, 1997, could not have been invoked. Thus, the petitioners had a right to the grant of relaxation. Secondly, it has been pointed out that in O.A. No. 213/2001 decided on December 4, 2002, the Tribunal itself has taken a different view. Thus, the order passed by the Tribunal in the petitioners' case is vitiated.

5. Admittedly, the test for promotion was held in May 1999. At that time, the order dated July 22, 1997 was already in existence. The petitioners had not challenged the validity of that order at any stage. They had appeared in the test without any objection. Having failed, they have claimed relaxation.

6. The Departmental authorities are entitled to lay down minimum conditions of eligibility. This is essential for the maintenance of efficiency in the working of the Government Offices. The persons who failed to achieve even the minimum standard cannot be said to be suitable for promotion to a higher post. This is precisely the view that has been taken by the authority and has been upheld by the Tribunal. There is no arbitrariness in the action. In fact, it is calculated to promote public interest. It is in the interest of efficiency which has already reached at almost the lowest ebb. Even otherwise, relaxation cannot be claimed as a matter of right. No mandamus can be issued. In this situation, we find no ground to interfere in the exercise of extraordinary jurisdiction under Article 226 of the Constitution.

7. Learned counsel has placed reliance on the decision in *Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others*, . This was a case where the service rules had been amended in the year 1977. The issue was whether the rules would be applicable to the vacancies which had existed prior to the amendment. Still further, the original rules/instructions required the preparation of a panel of Sub-Registrars for promotion every year. Thus, the court had taken the view that the panel for the year 1976 could be prepared only in accordance with the rules which were in force at that time. Such is not the position in the present case. Herein, no rule or instructions have been pointed out by the learned counsel for the petitioners to show that the authority was under an obligation to prepare a panel of suitable candidates every year. This being the factual position, the petitioners cannot derive any advantage from the decision in *Rangaiah's* case.

8. Another fact which deserves mention here is that when this case was posted for hearing on an earlier date, it was adjourned to enable the counsel for the

petitioners to produce the rules. Despite opportunity, the rules have not been produced. Apparently, there is no provision akin to that which fell for the consideration of their Lordships in Rangaiah's case. Thus, there is a clear distinction between the present case and the one which was before their Lordships of the, Supreme Court.

9. Faced with this situation, learned counsel for the petitioners has referred to the decision of the Tribunal in another case. The full facts in that case are not before us. However, on a perusal of the order, it appears that the case related to the promotion of Telecom Technical Assistants against the backlog of vacancies which had been reserved for the members of Scheduled Castes and Scheduled Tribes. Thus, a test was held exclusively for the persons belonging to these two categories. In that context, directions for following the rules as was in force prior to July, 1997, were given. Since the complete factual position is not before the court, we are not in a position to make any comment about the decision. However, so far as the present case is concerned, we are satisfied that there is no violation of any rule or law. There is no injustice. Thus, no case for interference is made out.

10. No other point has been raised.

11. In view of the above, we find no merit in this petition. It is consequently dismissed in limine.