
(2010) 07 KL CK 0065

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 4050 of 2010

Maya

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 22-07-2010

Acts Referred:

Citation : (2010) 3 KLT 454

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : Kaleeswaram Raj, for the Appellant; Alexander Thomas and Antony Mukath, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Antony Dominic, J.—The issues raised in these Writ Petitions are common, and therefore, the cases are disposed of by this common judgment.

2. W.P.(C) No. 3896/10 is treated as the leading case.

3. Petitioner applied for the post of Draftsmen Grade II (Civil) in Harbour Engineering/PWD/Ground Water Department. Ext.P4 is the ranked list, which show that the ranked list was in respect of the aforesaid department alone. However, by Ext.P5, he was advised for appointment as Draftsman Grade I/ Overseer Grade I (Civil) in the Local Self Government Department. According to the petitioner, candidates like him who has been selected for the particular department cannot be advised for another department, and therefore, the petitioner states that Ext.P5 advising him to LSGD is illegal.

4. Although PSC and Government seek to justify the said action of the respondents, in my view, a detailed consideration of those factual issues are unnecessary. This is for the reason that this Court has already held that a candidate who is included in a ranked list for a particular department cannot be advised to another department.

5. In the judgment in W.P.(C) No. 2018/04, the PSC advised candidates from the ranked list published for the post of Junior Clerk in Travancore Titanium Products Limited to the vacancies in the Kerala Motor Transport Workers Welfare Fund Board. In that judgment, this Court held that the PSC has no power or authority to advise candidates to the respondent Board from a list published for appointment in a different establishment. On that basis, Writ Petition was allowed.

6. Similar view was taken by this Court in the judgment in W.P.(C) No. 15115/04 where a candidate included in the ranked list for the post of Lower Division Clerk was advised for appointment as a Warden in the Scheduled Caste Development Department. By judgment dated 30th of August, 2005, this Court held that the candidate could not have been advised to another department or post. By virtue of these judgments, the position is settled that the petitioners are liable to be advised only to the posts in respect of which ranked lists have been published. In this case, admittedly, the petitioners have been advised for appointment in the Local Self Government Department, which was impermissible.

7. Learned Counsel for the PSC relied on the judgments of this Court in W.P.(C) No. 30967/07 and 14019/2009. W.P.(C) No. 30967/07 was filed by candidates included in a ranked list for the post of LD Clerk in Wynad District. They contend that the Government as per notification dated 15.5.2007 declared the post of Warden in Scheduled Tribes Development Department as equivalent to that of clerical cadre, and therefore, the vacancies of Warden should be reported and filled up from the ranked list for Lower Division Clerks. That claim was upheld by this Court by the aforesaid judgment. Similar was the facts involved in W.P. (C) No. 14019/2009. However, a reading of the judgment show that, in these cases, Writ Petitions were filed by the candidates who wanted to be advised and the contention that the right of a candidate was to be advised only against vacancies in the department in relation to which the ranked list was published, was not considered by this Court. Therefore, these judgments do not improve the case of the PSC.

8. Thus, in view of the principles laid down in the judgments in W.P.(C) No. 30967/2007 & 14019/2009, Ext.P5 memo advising the petitioner is liable to be quashed and I do so. Petitioner shall be retained in the ranked list and advise as and when his turn arises.

9. The issue raised in W.P.(C) Nos. 4050, 4465 and 18123/10 is also similar in all respects. For the aforesaid reasons, the memos advising the candidates in these Writ Petitions are also illegal and are set aside. These Writ Petitions are allowed with a direction to the P.S.C. to retain the petitioners in the ranked lists, in which they were included, and advise mem, as and when their turn arises.

Writ Petitions are allowed.