
(2021) 01 KL CK 0365
In the High Court Of Kerala
Case No : Writ Petition (C) No. 6801 Of 2020

Nayana S. Rajeev

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 15-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0365

Hon'ble Judges : Anu Sivaraman, J

Bench : Single Bench

Advocate : Kaleeswaram Raj, Varun C. Vijay, Thulasi K. Raj, Maitreyi Sachidananda Hegde, Latha Anand

Final Decision : Disposed Of

Judgement

1. These writ petitions are filed seeking the following reliefs:-

â??In W.P.(C) No. 6801/2020:-

i) To declare that the petitioner is entitled to be appointed to the post of Executive Trainee (Personnel) in the Kerala Minerals and Metals Ltd,

Sankaramangalam, Chavara, Kollam based on the marks obtained by her (68 marks) in the selection process for appointment to the above said post.

ii) To declare that Smt.Rehmathu Niza S who has secured only 61.2 marks in the selection process for appointment to the post of Executive Trainee

(Personnel) in the Kerala Minerals and Metals Ltd, Sankaramangalam, Chavara, Kollam is not entitled to be appointed in the above said post ahead of

the petitioner.

iii) To issue a writ of mandamus directing the respondents 1 to 3 to publish the final list/select list for appointment to the post of Executive Trainee

(Personnel) in the Kerala Minerals and Metals Ltd, Sankaramangalam, Chavara,

Kollam and to appoint the petitioner as Executive Trainee

(Personnel) based on the marks obtained by her in the selection process, with immediate effect;

iv) To issue a writ of mandamus directing the respondents 1 to 3 to refrain from altering the marks awarded to the candidates in the group discussion

and interview conducted on 11.02.2019 at KMML Guest House, Sankaramangalam, Chavara, Kollam and not to appoint any other candidate than the

petitioner to the post of Executive Trainee (Personnel) in the Kerala Minerals and Metals Ltd, Sankaramangalam, Chavara, Kollam in the notified

vacancy.

i) Issue a writ of certiorari quashing Ext.P9 to the extent to which it notifies the post of Personnel Officer and invites Applications for filing up of the

vacancy in the said post as unjust, illegal and arbitrary;

ii) Declare that the respondents cannot fill up the vacancies in the post of Personnel Officer in a proceeding initiated as per Ext.P9.

iii) To issue a writ of mandamus directing the respondents not to fill up the vacancy/vacancies in the post of Personnel Officer in the proceedings

initiated as per Ext.P9.â??

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents. In view of the directions being issued,

notice to the party respondents is dispensed with.

3. It is submitted by the learned counsel for the petitioner that the petitioner had applied for selection to the post of Executive Trainee (Personnel),

which was notified by Ext.P1. It is submitted that Ext.P1 notification had been issued for selection to the post of Executive Trainee (Accounts) and

Executive Trainee (Personnel). It is submitted that the entire selection has been completed for the post of Executive Trainee (Accounts) and

appointments were also made. However, in the case of Executive Trainee (Personnel), which was the post for which the petitioner had submitted an

application, though a written test and group discussion along with an interview were conducted, no select list was prepared. The petitioner had

approached this Court seeking directions to the respondents to publish the list prepared after the selection. It is submitted that orders had been issued

by this Court on several occasions directing the respondents to produce the

results. The petitioner had raised a specific case that she was the successful candidate having secured the highest marks in the written test, group discussion as well as the interview and that the selection is being held up only due to malafide intention to deny appointment to her. It is submitted that the cut off marks fixed was only 40 and that the petitioner had already secured 54.8 marks in the written test and the group discussion.

4. A counter affidavit has been placed on record by the 2nd respondent in W.P. (C) No.6801/2020. It was stated therein that a written test was conducted on 15.01.2019 and a group discussion was held on 11.02.2019. It is stated that 10 candidates were shortlisted for the interview on the basis of the marks scored by them in the written test and group discussion. The constitution of the selection committee is also indicated at paragraph 5 of the counter affidavit filed by the 2nd respondent on 05.11.2020. It is stated at paragraphs 6 and 7 of the counter affidavit as follows:-

â??6. The Selection Committee interviewed the candidates on 11.02.2019 itself. Thereafter, presumably based on the facts that no candidate is found suitable, the Selection Committee did not finalise the selection list.

7. At this distance of time, at least some of the selection committee members are not either available or traceable. At any rate, no lists finalized and published. Therefore, no further process can be continued based on the notification dated 17.01.2018.â??

5. It is submitted that the Selection Committee did not submit the minutes of its meeting or the interview conducted on 11.02.2019 and that as such, the respondents were disabled from taking any further steps with regard to the selection. It is stated that a decision was taken cancelling Ext.P1 notification.

6. A further affidavit has also been placed on record by the 2nd respondent stating that the selection committee did not handover any proceedings and had also not communicated anything regarding the interview to the 2nd respondent. It is stated that it was decided that those with experience could be appointed instead of trainees and accordingly a notification has been issued inviting applications for the substantive post with experience. The notification issued for the post of Personal Officer is also under challenge at the instance of the petitioner in W.P.(C) No.29158/2020.

7. I have considered the contentions advanced on either side at considerable

length. I have also perused the interim order issued by this Court during the pendency of these writ petitions as well as the pleadings and the documents placed on record. It appears that the written test and the group discussion had been completed on 15.01.2019 and on 11.02.2019 respectively and that scores of the same are available. It appears that it was on account of the non submission of minutes and the score card of the interview that the selection could not be completed. The petitioner alleges malice and extraneous consideration and contends that the attempt is only to deny appointment to the petitioner. In view of the fact that the selection is to a public post, which has been duly notified and the selection having been proceeded with to a considerable stage, the decision taken by the respondents to abandon the selection is clearly unsustainable. The various interim orders issued by this Court in these proceedings and the affidavits filed by the respondents make it clear that the decision taken by the respondents was not a proper exercise of discretion. I am, therefore, of the opinion that the decision taken by the 2nd respondent to cancel Ext.P1 is not proper and is not informed by any justifiable reason. It is an admitted fact that the written test and the group discussion had been duly conducted by the respondents. What remains is only the conduct of interview and the preparation of a final list on the basis of such interview. If that be so, I am of the clear view that the selection should go on and the successful candidate should be offered appointment in terms of Ext.P1. The fact that the respondents had decided to notify a post of Personal Manager during the pendency of these writ petitions cannot stand in the way of appointments being made pursuant to Ext.P1, especially in view of the fact that the selection had proceeded to such an advanced stage.

8. In the above view of the matter, the decision taken by the respondents to cancel the selection pursuant to Ext.P1 is set aside. There will be a direction to the respondents to conduct an interview pursuant to Ext. P1, taking note of the marks secured by the candidates in the written test and the group discussion within a period of one month from the date of receipt of a copy of this judgment.

The petitioner shall also be issued with a call letter for the interview and the selection shall proceed in terms of Ext.P1. After publication of list, appropriate steps for making appointments in pursuance to Ext.P1 shall also be

taken by the respondents. The issuance of the notification, which is impugned in W.P.(C) No.29158/2020 will not stand in the way of the completion of the proceedings as directed and the appointments pursuant to

Ext.P1.

These writ petitions are disposed of accordingly.