
(1955) 01 KL CK 0006
In the High Court Of Kerala
Case No : O.P. No. 139 of 1954

O.K. Kumara Kurup

APPELLANT

Vs

Travancore-Cochin State and Others

RESPONDENT

Date of Decision : 27-01-1955

Acts Referred:

Citation : AIR 1955 Ker 160

Hon'ble Judges : V.S. Subramanya Iyer, J;M.S. Menon, J

Bench : Division Bench

Advocate : K.P. Abraham and K.T. Ninan, for the Appellant; Govt. Pleader for Respondent Nos. 1 and 2 and T. Chandrasekhara Menon, for the Respondent

Judgement

1. After a prolonged discussion we were able to ascertain the facts and details that led up to this petition.

2. The Petitioner is a Vidwan engaged in teaching the Malayalam Language in the National High School, Kodakara. It is a private institution. It was unaided. The scheme promulgated by the State on 18-8-1950 in the matter of private educational institutions to come into force on 1-10-1950 was taken advantage of by this institution on 16-10-1950. On that date, i.e., the date of accession, the Petitioner was drawing a salary of Rs. 80/- which was fixed on 1-6-1950 in the grade Rs. 80-4-100-5-125.

An increment of Rs. 4 due to him on 1-6-1951 was as proposed by the management approved of by the Inspector and the teacher was paid accordingly. The State, however, on 5-7-1954 issued an order to the Manager to the effect that the Petitioner is under the rules framed on 6-2-1953 entitled only to get a salary of Rs. 50 which is fixed accordingly.

The result of this was, the order states, that the teacher has overdrawn above Rs. 1500 and the management is directed to ask the teacher to refund this sum and in how many instalments the Recovery is to be made. The Petitioner seeks to quash this order as also the order issued to him by the Manager pursuant thereto.

3. The liability to pay the Salary of the Petitioner is on the management and it is contractual. There is no dispute between the manager, the third Respondent, and the Petitioner that he is in the aforesaid grade from 1-6-1950 and that he is entitled to the annual increments in that grade. There was, according to them, no over-payment at all and nothing to be recovered from the Petitioner.

Whether the State is entitled to recoup any extra payment that they made to the Manager towards the salary of the Petitioner is beyond the scope of this petition. Under the, rules and the scheme there is no nexus between the Petitioner and the State. It is, therefore, beyond the jurisdiction of the State to either declare that the Petitioner has overdrawn any salary from the manager or to direct to recover any such sum from the Petitioner by the Manager.

The order complained of which contains the aforesaid directions cannot, therefore, be supported and is quashed. It follows that the Manager's order to the Petitioner pursuant to the order issued to him by the State should also be quashed.

4. The petition is allowed as indicated above. We make no order for costs.