
(2014) 10 KL CK 0234

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 25224 of 2014 (C)

P. Gopalan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2014) 10 KL CK 0234

Hon'ble Judges : Dama Seshadri Naidu, J

Bench : Single Bench

Advocate : N. Mahesh, Advocate for the Appellant; M. Gopikrishnan Nambiar, S.C. and V. Vijulal, Government Pleader, Advocate for the Respondent

Judgement

Dama Seshadri Naidu, J.—Heard the learned counsel for the petitioners and the learned Standing Counsel for the second respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners joined the service of Kerala State Road Transport Corporation ("KSRTC" for brevity) as empanelled conductors on 18.03.1999 and 01.06.2000 respectively. In spite of Exhibit P5 Government Order, their services have not been regularised by the respondent Corporation on the premise that they did not complete 120 duties annually during the said period, notwithstanding completion of ten years of service. Thus, aggrieved by the inaction of the respondent Corporation in regularising their services, the petitioners have approached this Court by filing the present writ petition.

3. According to the learned counsel for the petitioners, they have completed more than ten years as on 22.12.2011 in terms of the details supplied by them in Exhibits P2 and P4. The learned counsel has contended that the stipulation of 120 duties a year came to be incorporated only in 2013, after much litigation before this Court. Since it has prospective application, contends the learned counsel, the respondent Corporation ought not to have denied the request of the

petitioners to have their services regularised. Accordingly, he has urged this Court to issue a positive direction to the respondent Corporation to regularise the petitioners' services with effect from 22.12.2011.

4. The learned Standing Counsel for the respondent Corporation, on verification of Exhibits P2 and P4, has submitted that the first petitioner did complete ten years by 22.12.2011. At any rate, the learned Standing Counsel has further contended that though 120 duties a year in respect of temporary employees has become part of Exhibit P5 order through a subsequent amendment, it, however, relates back to the original date of Exhibit P5, and as such, the benefit of regularisation cannot be extended without the petitioners' establishing that they had 120 duties annually in those ten years.

5. Having regard to the rival submissions of the learned counsel for the petitioners and the learned Standing Counsel, this Court is of the opinion that the issue has already been decided by this Court on more than one occasion. It has conclusively been held that the stipulation of 120 duties a year has prospective effect from 2013. Accordingly, in my considered view, the said objection cannot be sustained. Resultantly, there shall be a direction to the first respondent to regularise the services of the first petitioner forthwith in terms of Exhibit P5. It is made clear that the first respondent shall complete the entire exercise of regularising the services of the first petitioner as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

6. In so far as the second petitioner is concerned, the learned Standing Counsel for the respondent Corporation has raised an objection stating that he would not be entitled to the benefit of regularisation in terms of the extant Government Orders. She has brought to the notice of this Court that on an earlier occasion, the first petitioner filed W.P. (C) No. 12721/2013, which was disposed of by this Court through Exhibit P6 judgment dated 22.05.2013. In compliance with the direction of this Court given therein, the respondent authorities passed an order on 22.11.2013 rejecting the claim of the second petitioner. When the said order is supplied to the court across the Bar, the learned counsel for the petitioners has raised strenuous objection that it has never been communicated to the second petitioner and as such it does not bind him.

7. In any event, there is an order passed by the competent authority determining one way or another the rights of the second petitioner concerning his claim for regularisation. The learned Standing Counsel has submitted that it has been served in the usual course on the second petitioner. Be that as it may, once an order, more particularly in compliance with the direction of this Court, has come to be passed by a competent authority, it cannot be brushed aside on the premise that it has not been served on the affected person, the very plea being in dispute. Accordingly, in the interest of justice, this Court closes the writ petition in so far as the second petitioner is concerned, leaving it open for him to lay a proper challenge against the order dated 22.11.2013 referred to above. It

is further made clear that in the light of the submission made by the learned counsel for the petitioners that the order has not been communicated to the second petitioner, the respondent Corporation is directed to communicate the order to the second petitioner forthwith. On such communication, the first petitioner is at liberty to take appropriate measures in that regard.

With the above observations the writ petition stands disposed of. No orders as to costs.