

(2010) 01 KL CK 0078

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 36741 of 2008 (Y)

P.G. Sasidharan and Others

APPELLANT

Vs

The K.S.R.T.C. and Others

RESPONDENT

Date of Decision : 08-01-2010

Acts Referred:

Citation : (2010) 01 KL CK 0078

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : N. Unnikrishnan, for the Appellant; M. Ramesh Chander, for the Respondent

Judgement

Antony Dominic, J.—The petitioner seeks an order to quash Exts.P4 & P7 and a declaration that he is entitled to promotion as Store Keeper from the date of promotion of the 4th respondent, together with seniority over all his juniors.

2. The petitioner joined the service of the respondent Corporation as a Reserve Conductor as early as on 31/05/1988. During 1990, the Corporation invited applications from among its employees for recruitment to the post of Assistant Store Keeper Gr.II. As part of the selection process, examination was held on 26/08/1990 and finally Ext.P1 ranked list was published on 25/03/1991, where the petitioner was included at serial No. 6. Along with others, he was also sent for pre-appointment training and was appointed by order dated 26/09/1997. Accordingly, the petitioner joined the post on 01/10/1997.

3. Subsequently, by Ext.P2 dated 20/12/2004, a draft gradation list of Assistant Store Keeper Gr.II as on 31/10/2004 was published, where respondents 4 to 12 were shown as juniors to the petitioner. Still later, according to the petitioner, when he was due to be considered for promotion to the post of Store Keeper, by Ext.P4 dated 12/03/2008, a fresh gradation list of Assistant Store Keeper Gr.II as on 01/01/2008 was published showing the petitioner at serial No. 22 as junior to respondents 4 to 12. It is stated that based on Ext.P4 gradation list, by Ext.P7

order, the 4th respondent, who was originally his junior, was promoted to the higher post of Store Keeper. It was thereupon that this writ petition is filed with the prayers mentioned earlier.

4. At the stage of admission, this Court passed order dated 15/12/2008 directing that promotions, if any, shall be subject to the result of the writ petition. Although, respondents 1, 2 & 3 have entered appearance, despite service of notice, there is no appearance on behalf of respondents 4 to 12.

5. The contention of the learned Counsel for the petitioner is that seniority assigned to respondents 4 to 12 is in violation of Clause (c) & (f) of Ext.P5 Annexure to the appointment order issued to the petitioner on his appointment as Assistant Store Keeper Gr.II. It is also his case that Ext.P4 is also against Rule 9(c) of the Grade Promotion Rules and Rule 27(a) of Part II, KS & SSR. This contention is raised on the basis that appointment as Assistant Store Keeper was not in the normal channel of promotion, but outside the cadre, and that too based on a selection by way of an internal recruitment.

6. It is stated that Rule 9(c), which has been extracted in Ground B of the writ petition, provides that service in posts outside the prescribed channels of promotion shall not be counted as qualifying service. It is also pointed out that Clauses (c) & (f) of Ext.P5 provides that rank in the cadre of Assistant Store Keeper Gr.II will be fixed with reference to the date of promotion and that posting as Assistant Store Keeper will be treated as change of category. The learned Counsel also has brought to my attention to the judgment of this Court in WP(C) No. 13261/2008, which was filed by serial No. 1 in Ext.P1 ranked list, where this Court granted relief when his seniority was overlooked.

Having regard to the above facts which deserve acceptance, I am inclined to think that the petitioner is entitled to succeed. Therefore, Ext.P4 to the extent respondents 4 to 12 are assigned seniority over the petitioner and Ext.P7 promoting the 4th respondent overlooking the claim of the petitioner are set aside. The respondents are directed to reassign the seniority and re- consider the claim of the petitioner for promotion to the post of Store Keeper with effect from the date on which the 4th respondent is promoted by Ext.P7. Consequential benefits other than monetary benefits, will also be given to the petitioner. This shall be done as expeditiously as possible, at any rate, within six weeks of production of a copy of this judgment.

This writ petition is disposed of as above.