
(2002) 06 KL CK 0008
In the High Court Of Kerala
Case No : WA. No. 980 of 2002

P.V. Udayakumar

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 10-06-2002

Acts Referred:

Kerala Public Service Commission Rules of Procedure, 1976 — Rule 14

Citation : (2002) 2 KLJ 35

Hon'ble Judges : K.Thankappan, J;Cyriac Joseph, J

Bench : Division Bench

Advocate : P.C. Joseph and Jacob Thomas Vellukunnel, for the Appellant; P.K. Shakkeela (G.P.), P.C. Sasidharan (SC.KPSC) and James Koshy . N. S. C.K.S.R.T.C.), for the Respondent

Final Decision : Dismissed

Judgement

Cyriac Joseph, J.—This appeal is against the judgment in O.P.No.5358\\2002 which was dismissed by the learned Single Judge. The appellants are the poetitioners in the Original Petition. The appellants are conductors appointed in the KSRTC on a provisional basis. They have filed Ext.P7 representation claiming regularisation in service. In the writ Petition they sought a direction to respondents 1 to 3 to pass appropriate orders on Ext.P7 representation dated 6.2.2002. They also prayed for a declaration that the respondents have no authority to make appointments over and above 1545 vacancies of conductors notified as per Ext.P6 dated 25.11.1997. There was also a prayer for restraining respondents 1 to 3 from terminating the services of the petitioners until a final decision was taken on Ext. P7. The learned Single Judge dismissed the Original Petition holding that provisional appointees like the petitioners in the Original Petition have no right to claim regular appointment. The learned Single Judge also rejected the contention that the respondents have no authority to make appointments over and above 1545 vacancies mentioned in Ext.P6 notification of the public Service Commission. Aggrieved by the judgment of the learned Single

Judge this appeal has been filed by the petitioners in the Original Petition.

2. Having heard learned counsel for the appellants and having perused the materials placed on record, we do not find any valid reason to interfere with the impugned judgment. The learned Single judge was right in holding that provisional appointees like the appellants have no enforceable legakright for regularisation of their services. Therefore, the learned Single Judge was also justified in refusing to grant the relief of directing the respondents to consider and dispose of Ext.P7 and to allow the petitioners to continue in service till the disposal of Ext.P7.

3. In support of the contention that the respondents have no authority to make appointments over and above 1545 vacancies, learned counsel for the appellants relies on the judgment of the Supreme Court in *State of Punjab Vs. Ragbir Chand Sharma and Another*, . Though this judgment was cited before the learned Single Judge and reference has been made to the said judgment in the impugned judgment, the learned Single judge has declined to apply the ratio of the said judgment to the facts of this case in view of Rule 14 (wrongly typed as 13) of the Kerala Public Service Commission Rules of Procedure. It is true that in Ext,P6 Notification the number of vacancies was mentioned as 1545. However, in the Note below, it was specifically stated that so long as the ranked list of the Public Service Commission remained in force, appointments could be made from the said ranked list against additional vacancies reported during the period when the ranked list remained in force. Therefore, the selection by the Public Service Commission was not only for 1545 vacancies mentioned in the Notification but also for the future vacancies that might be reported to the public Service Commission during the currency of the ranked list. In view of the above position, there is no merit in the contention of the, appellants that the respondents have no authority to make appointments to the future vacancies from the ranked list. The reliance placed on the judgment of the Supreme Court is misplaced. The case before the Supreme Court related to the appointment of Asst. Advocate General in the State of Punjab. Applications were invited in respect of only one vacancy and the person ranked first in the select list was appointed. Subsequently the said appointee resigned and the question arose whether the person ranked second in the select list has got a right to be appointed in the vacancy caused by the resignation of the first appointee. The Supreme Court held that the person ranked second in the ranked list had no right. There is nothing to show that in the case before the Supreme Court the Notification was in respect of any future vacancy that might arise, whereas, in the present case the Notification of the Public Service Commission specifically provided that appointments would be made from the. ranked list against future vacancies that might be reported during the currency of the ranked list. Hence, the above mentioned judgment of the Supreme Court cannot help the appellants in this case. Therefore, this appeal is devoid of merit and the appeal is dismissed.