

(2025) 11 KL CK 1909
In the High Court Of Kerala
Case No : Writ Petition (C) No. 4626 Of 2024

R Vijayakumar

APPELLANT

Vs

State Of Kerala Represented By The Principal Secretary

RESPONDENT

Date of Decision : 19-11-2025

Acts Referred:

Kerala State Civil Supplies Corporation Common Service Recruitment Rules, 2021 — Rule 1(3), 19

Citation : (2025) 11 KL CK 1909

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : Reena Sharon Suresh, K.P.S.Suresh, Vinu Varghese, Molly Jacob, Premchand R. Nair

Final Decision : Dismissed

Judgement

N.Nagaresh, J

1. The petitioner, who is working as Senior Assistant (Grade-I) with the Supplyco (Kerala State Civil Supplies Corporation Limited), aspires promotion to the post of Junior Manager. The petitioner seeks the following reliefs:-

(a) Direct the respondents to modify the Ext.P3 Recruitment Rules (part of CSR) to delete the 05 year experience clause imposed on regular feeder cadre employees and thereby ensure level playing field between all channel of promotion to the post of Junior Manager (General/Marketing).

(b) Further, direct the respondents to grant regular promotion to the petitioner to the post of Junior Manager (Marketing/General) stream with immediate effect or initiate the process of promotion through KPSC or Promotion by Selection modes.

c) Direct the Corporation and Government to strictly adhere to their own commitment regarding reduction of deputation quota by 10% per year to facilitate promotion to the Corporation employees.

(d) Direct the Corporation to follow the guidelines in respect of deputation by issuing proper notification inviting application from the employees of Central/ State/ PSUs with strict adherence to MBA/LLB qualifications as the case may be.

2. The petitioner submits that Ext.P3 is the Kerala State Civil Supplies Corporation Common Service Recruitment Rules, 2021. As per Ext.P3 Recruitment Rules, vacancies of Junior Manager (General) can be filled up by (i) Direct recruitment through KPSC, (ii) By-transfer recruitment through KPSC from the employees of the Corporation (iii) Promotion by selection. For direct Recruitment as well as for by-transfer recruitment, the educational qualifications prescribed are Graduation and MBA from a UGC Recognised University / National Institutes established by the Central Government or Institution established by Government of Kerala or equivalent. However, for promotion by selection of persons like the petitioner, the qualifications prescribed are (i) Senior Assistant (Grade-I) with five years experience, (ii) Graduation and MBA / MCA / B.Tech / B.E. / LLB / CA Inter / M.Com. / CMA from a UGC Recognised University / National Institutes established by the Central Government or Institution established by the Government of Kerala or equivalent, (iii) Pass in Account Test (Lower) conducted by the KPSC and (iv) Completion of probation in feeder category.

3. The petitioner would urge that when the educational qualifications prescribed for direct recruitment and for by-transfer recruitment on the one part and the educational qualifications prescribed for promotion by selection are almost one and the same, the respondents cannot lay down an additional condition that Senior Assistant (Grade-I) should have five years' experience for being considered for promotion to the vacancies of Junior Manager (General), under the promotion quota. This is highly illegal and discriminatory, contends the petitioner.

4. If direct recruits or by-transfer recruits with Graduation and MBA can discharge the functions of the Junior Manager, then regular employees of the Supplyco who are having same educational qualifications can also discharge the duties of Junior Manager (General). Imposing an additional condition of five years' experience is therefore highly arbitrary and liable to be set aside.

5. The petitioner further urged that the appointments are made to the Corporation by deputation. The employees from Civil Supplies Department are deputed to Supplyco indiscriminately without insisting for any educational qualification whatsoever. Such deputation diminishes the chances of promotion of the employees of the Corporation. The Government has committed to reduce the deputation quota by 10% for each year to facilitate the promotion of the Corporation employees. However, the Government is not adhering to the commitment given. Therefore, the Supplyco is compellable to follow the guidelines in respect of deputation by issuing proper notification inviting applications from the employees of Central / State / Government / PSUs with strict adherence to MBA / LLB qualifications as the case may be.

6. Standing Counsel entered appearance on behalf of the Supplyco and resisted the writ petition. It is submitted that the Kerala State Civil Supplies Corporation Limited is a Government Company incorporated under the Indian Companies Act, 1956. The petitioner was promoted to the cadre of Senior Assistant (Grade-I) in the Kerala State Civil Supplies Corporation on 11.08.2022. He does not have five years' experience. Therefore, he is not eligible to be considered for promotion to the post of Junior Manager (General).

7. Standing Counsel representing the Supplyco submitted that there may be well qualified persons in the Supplyco, but that does not mean that they can be placed in top positions. The cadre of Junior Manager is a managerial level cadre that needs more experience and ability. So, five years' experience prescribed by the Recruitment Rules, 2021, is justifiable.

8. Standing Counsel further submitted that non-managerial employees working under the Corporation are also given a chance to get promotion to the managerial posts without attending competitive examination. As the internal candidates are given opportunities without appearing in competitive examinations, the prescription of five years' experience is justified.

9. Standing Counsel for the Supplyco further submitted that Rule 19 of the Recruitment Rules, 2021 is pertaining to the appointment by deputation from other Public Sector Undertakings or from the services of the State Government for a limited period. Though the petitioner claims that he is having requisite qualification, the petitioner has not produced his MBA Degree certificate, pointed out the Standing Counsel for the Supplyco.

10. The respondents further urged that there is no merit in the contention of the petitioner that deputation of employees coming to the post of Junior Manager need not possess any qualification as prescribed by the Recruitment Rules and that the persons having 10th pass from the Department can easily get the Junior Manager post through the deputation route. Persons with SSLC qualification are appointed as Lower Division Clerks in the Supplyco from the list of candidates prepared by the KPSC. The posting of deputation personnel as Junior Manager is not discriminatory and arbitrary as alleged by the petitioner.

11. Standing Counsel further pointed out that for deputation, there are fixed number of posts and the deputation can be made to the earmarked posts only. There is nothing under law that prohibits Government from granting deputation as against the vacancies earmarked for deputation.

12. The 1st respondent also resisted the writ petition filing counter affidavit. Government Pleader pointed out that as per the Recruitment Rules, 2021, in Rule 1(3), it is specifically stated that the rule shall apply to all directly recruited employees of the Corporation. The Government has also made it clear in the order portion of the Rules that the Rules are made by amalgamating the existing Rules and Orders of the Corporation that govern the service conditions of the employees of the Corporation. Therefore, it is clear that Ext.P3 is applicable only

to the own employees of the Corporation.

13. Government Pleader pointed out that Rule 140(a) of Part I KSR states that an officer can be transferred to the service of a body, incorporated or not, which is wholly or substantially owned or controlled by the Government without obtaining his willingness. The right of the Government to formulate such deputation norms has been upheld by the Division Bench of this Court as per Ext.R1(a) judgment in W.A.No.2147 of 1997. The Government Pleader further urged that the Government has already curtailed deputation to Junior Assistant, Senior Assistant (Grade-II) and Senior Assistant (Grade-I) by 10% in each cadre on a yearly basis. This process was started in the year 2019. At present, the yearly deputation reduction of 10% is being implemented properly. The deputation in the cadre of Junior Assistant, Senior Assistant (Grade-I) and Senior Assistant (Grade-II) may end in the years 2028-2030. The writ petition is therefore liable to be dismissed, urged the Government Pleader.

14. I have heard the learned Counsel for the petitioner and the learned Government Pleader representing the 1st respondent and the learned Standing Counsel appearing for the 2nd respondent.

15. The petitioner is a Senior Assistant (Grade-I) working with the Supplyco. He joined Supplyco in the year 2001 as a Helper. The petitioner states that he holds various Degrees, like B.Sc., B.Ed., M.A. in Sociology, LL.B, Higher Diploma in Cooperation and Post Graduate Diploma in Human Resources Management. The petitioner is therefore amply qualified for promotion to the post of Junior Manager (General).

16. Ext.P3 is the Recruitment Rules relating to appointment to the post under the Supplyco. The Rules relating to the appointment to the post of Junior Manager (General) read as follows:-

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Junior Manager (General)

(i) Direct Recruitment through KPSC.

(ii) By transfer recruitment through KPSC from the employees of the Corporation.

(iii) Promotion by Selection

(i) Direct Recruitment/By transfer Recruitment: Graduation and MBA from a UGC Recognised University/National Institutes established by the Central Government

or Institution established by Government of Kerala or equivalent.

(ii) Promotion by Selection: (i) Senior Assistant I with 5 years of experience. (ii) Graduation and MBA/MCA/ B.Tech/ B.E./LLB /CA Inter/M.Com./ CMA from a UGC Recognised University/National Institutes established by the Central Government or Institution established by the Government of Kerala or equivalent.

(iii) Pass in Account Test (Lower) conducted by KPSC. (iv) Completion of probation in feeder category

It can be seen from the Rule that for direct recruitment through KPSC and for by-transfer recruitment, the educational qualifications prescribed is Graduation and MBA. In the matter of promotion by selection of the employees of the Supplyco, the educational qualification prescribed are Graduation and MBA / MCA / B.Tech. / B.E. / LLB / CA Inter / M.Com / CMA. When direct recruitment and by-transfer recruitment is confined to the persons holding Graduation and MBA, various other qualifications are included in the case of promotion by selection. It is evident that the provision for promotion by selection to the post of Junior Manager (General) has been included in the Recruitment Rules in order to give promotional opportunities to the employees like the petitioner working in the Corporation holding different qualifications other than Graduation and MBA.

17. It is relevant here that for direct recruitment and by-transfer appointment, no previous experience is prescribed, but for promotion by selection, the Senior Assistant (Grade-I) should have five years experience. It is this prescription of the five years' experience that is challenged by the petitioner.

18. When direct recruitment to a post is made, those persons coming under the said quota are subjected to a competitive examination for direct recruitment by the Kerala Public Service Commission. However, as far as internal employees are concerned, they are selected for appointment to the post of Junior Manager (General) not based on any competitive examination. The post of Junior Manager (General) is being a post in a managerial capacity and the internal candidates are to be promoted to the post without subjecting them to any competitive examination, the Rule making authority felt that they should have at least a minimum practical experience in the Supplyco before being considered for promotion to the post of Junior Manager (General). I do not find any illegality in the prescription of experience for the Senior Assistant (Grade-I) for promotion to the post of Junior Manager (General).

19. Further argument of the petitioner is that the respondents are filling up the post, including Junior Manager (General), by deputation from the Civil Supplies Department. Such deputation substantially affects the promotional prospects of the employees inside the Civil Supplies Corporation and the said appointment by deputation from the Government Departments is liable to be regulated, if not curtailed.

20. The respondents would submit that Supplyco being a Corporation formed by

the Civil Supplies Department of the Government of Kerala, it was felt that experienced persons who have exposure in Civil Supplies area and who are working in the Government Department should be deputed for running Supplyco. Therefore, following the provisions of Part I KSR, the employees were deputed to the Civil Supplies Corporation.

21. Taking into consideration the demands raised by the employees of the Civil Supplies Corporation, the Government has already curtailed the deputation to Junior Assistant, Senior Assistant (Grade-II) and Senior Assistant (Grade-I) by 10% in each cadre on a yearly basis. Such reduction was started in the year 2019. At present, the yearly deputation reduction of 10% is being implemented properly in the cadres of Junior Assistant, Senior Assistant (Grade-I) and Senior Assistant (Grade-II). The respondents pointed out that the deputation in the cadres of Junior Assistant, Senior Assistant (Grade-I) and Senior Assistant (Grade-II) may end in the years 2028-2030.

22. Though relying on Ext.P7 order dated 25.07.2024, the petitioner urged that no substantial reduction has been made in the rate of deputation made from the Civil Supplies Corporation, the data available in the writ petition is not sufficient to hold that the Government is not reducing the deputation appointments by 10% each year. Furthermore, the prayer of the petitioner in this regard is to direct the Corporation and Government to strictly adhere to their own commitment regarding reduction of deputation quota by 10% per year. The Government has categorically stated that 10% reduction is effected in the matter of deputation every year.

In the afore circumstances, I find no reason to interfere with the Recruitment Rules or to give any mandatory direction to the Government in this regard. The writ petition fails and it is dismissed.