
(2010) 10 KL CK 0180
In the High Court Of Kerala
Case No : Writ Petition (C) No. 26774 of 2008

Rajeev, V.

APPELLANT

Vs

District Labour Officer and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Kerala Headload Workers Act, 1978 — Section 13, 13(1), 18, 2, 25
Kerala Headload Workers Rules, 1981 — Rule 26A, 26A(3), 26B, 27

Citation : (2010) 3 KLJ 785 : (2011) 2 LLJ 169

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : Febin J. Velukaran, for the Appellant; P. Nandakumar, Renil Anto Kandamkulathy, Koshy George, P.T. Govindan and Dinesh Mathew J. Muricken, for the Respondent

Final Decision : Allowed

Judgement

S. Siri Jagan, J.—A very interesting and very important question of law, in the present industrial climate in the State, arises in this case. The question is whether for registration under Rule 26A of the Kerala Headload Workers Rules, it is necessary that the persons seeking registration should be headload workers already working under an employer who seeks to employ them as his permanent attached headload workers. The said question of law arises in the following factual matrix:

2. The Petitioner is an employer running an establishment as defined u/s 2(j) of the Kerala Headload Workers Act. In the course of his business he has to get loading and unloading work also done in his establishment. The Petitioner started the business in the year 2005. Initially he employed his own permanent registered headload workers, who were three in number. According to the Petitioner, as time passed, the registered workers voluntarily left the employment of the Petitioner due to various personal reasons and, therefore, he engaged

Respondents 3 and 4 to do headload work, who filed Ext.P-4 applications for registration under Rule 26A of the Kerala Headload Workers Rules, before the 2nd Respondent. Since there was delay in considering the said applications for registration, the Petitioner and the workers obtained an order from this Court directing the 2nd Respondent to pass orders on those applications expeditiously. Pursuant to the said direction, the 2nd Respondent considered Ext.P-4 applications filed by Respondents 3 and 4 and passed Ext.P-7 order, rejecting the applications, on the ground that the Petitioner has not kept registers and records of headload workers, which he is liable to maintain under Rule 27 of the Kerala Headload Workers Rules. Petitioner filed an appeal before the first Respondent against that order rejecting the applications of Respondents 3 and 4 for registration and the first Respondent by Ext.P-9 order confirmed Ext.P-7 order on the same ground. The Petitioner is challenging Ext.P-7 and P-9 orders in this writ petition.

3. Petitioner's contention is that the Respondents 3 and 4 have a fundamental right to do headload work with an employer willing to employ them and denial of registration under Rule 26A of the Kerala Headload Workers Rules, which is a mandatory condition for being engaged as headload workers under Clause 6 of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 in so far as the area where the Petitioner's establishment is situated is a scheme covered area amounts to violation of their fundamental right to carry on a profession of their choice and the right of the Petitioner to employ his own permanent attached headload workers, which right is recognised under the Kerala Headload Workers Act, as laid down in the decision of the Full Bench of this Court in *Raghavan v. Superintendent of Police* 1998 (2) KLT 732 (F.B.). The Petitioner therefore seeks the following reliefs:

(i) a Writ of Certiorari or any other appropriate writ, order or direction to quash Ext.P-9 Appellate Order passed by the 1st Respondent upholding Ext.P-7 Order passed the 2nd Respondent.

(ii) a Writ of Mandamus or any other appropriate writ, order or direction commanding 1st and 2nd Respondent to register the Respondents 3 and 4 who are Petitioner's employees in the Register of Headload Workers and issue identity cards as provided under Rule 26A(3) of the Kerala Headload Workers Rules on the basis of Ext.P-4 application.

4. The 5th Respondent is the Chairperson of the Kerala Headload Workers Welfare Board Local Committee. The 6th Respondent is the Pool leader of pool No. 42 of the said Local Committee. The additional 7th Respondent, who has got himself impleaded in this writ petition was one among the three former headload workers of the Petitioner. The first Respondent has filed a counter-affidavit supporting the impugned orders. Going by the same, only persons already working with the Petitioner as headload workers can seek registration under Rule 26A, which should be proved by registers and records maintained by the Petitioner. Despite direction by the 2nd Respondent to the Petitioner to produce

registers and records kept in respect of the headload workers employed by him, the Petitioner has not produced the same and, therefore, the requirement of Respondents 3 and 4 being headload workers already employed by the Petitioner, which is a precondition for registration under Rule 26A, has not been satisfied in this case, consequent to which the Respondents 3 and 4 are not entitled for registration under Rule 26A, is the contention raised. The 5th Respondent Headload Workers Welfare Board represented by the Chairperson would also support that contention, specifically pointing out that in the orders impugned there is a specific finding that despite directions in that regard, the Petitioner has failed to produce registers and records proving employment of Respondents 3 and 4 as headload workers in the Petitioner's establishment, without which Respondents 3 and 4 are not entitled to registration under Rule 26A. It is also stated that the Petitioner has not registered himself as an employer under Clause 7 of the Scheme, which is also a condition precedent for getting headload workers under him registered under the Rules. The 7th Respondent would raise a contention that since he is a registered headload worker of the Petitioner, having an identity card, which has not been cancelled, the Petitioner cannot employ other headload workers, without employing the 7th Respondent first.

5. I have considered the rival contentions in detail. The term "headload worker" is defined in Section 2(m) of the Kerala Headload Workers Act, 1978, which reads thus:

(m) "headload worker" means a person engaged directly or through a contractor in or for an establishment, whether for wages or not, for loading or unloading or carrying on head or person or in a trolley any article or articles in or from or to a vehicle or any place in such establishment, and includes any person not employed by any employer or contractor but engaged in the loading or unloading or carrying on head or person or in a trolley any article or articles for wages, but does not include a person engaged by an individual for domestic purposes;

The term establishment is defined in Section 2(j) which reads thus:

(j) "establishment" means an establishment specified in the Schedule and includes the precincts thereof;

6. The Kerala Head load Workers Act, as such, does not contain any provision requiring or enabling headload workers to get registration from any authority. The legislature had at one time introduced a Section namely Section 25 by Ordinance No. 25 of 2001, introducing a provision for such registration, but since that ordinance lapsed, that Section is no longer in the Statute book. But Rule 26A of the Kerala Headload Workers Rules prescribes a procedure for registration of Headload Workers, which reads thus:

26A. Registration of Headload Workers.--(1) [any headload worker may submit his application for registration in Form IX to the Registering Authority concerned, with as many additional copies as there are employers or contractors from whom he claims to work.

(2) On receipt of such application the Registering Authority shall issue notice in Form X to the employers or contractors from whom the headload worker claims work and in area where the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 is in operation, to the Chairman, Kerala Headload Workers Welfare Board Local Committee in such area with copy of the application inviting objections, if any, on such application.]

(3) After considering the objections, if any, received and after giving an opportunity of being heard, the Registering Authority shall register the name of the headload worker in the Register of Headload Workers, on being satisfied that the headload worker is eligible for registration and communicate the fact to the parties within two weeks of such registration. The Registering Authority shall also issue identity card to the registered headload worker. If the name is not registered, the Registering Authority shall communicate the fact to the applicant with reasons therefor.

[(3A) Where the Identity Card of registration granted to a headload worker under Sub-rule (3) is defaced or accidentally lost or irrecoverably destroyed, he shall apply for a duplicate identity card along with two copies of recent photograph and a fine of Rs. 25(Rupees twenty five only) to the Registering authority concerned. The Registering Authority may after making necessary enquiries and satisfying himself of the genuineness, issue a duplicate identity card.]

(4) The Registration of a person as headload worker may be cancelled by (the Deputy Labour Officer of the District Labour Office concerned or where there is no post of Deputy Labour Officer in that District Labour Office, by the Assistant Labour Officer Grade I) after satisfying himself on a report from Registering Authority that the Registration has been obtained by fraud or mistake:

[Provided that not less than one month's previous notice in writing specifying the ground on which the registration is proposed to be cancelled shall be given by the authority empowered to cancel the registration to the headload worker, before the registration is cancelled.]

But the mandatory nature of the requirement of registration under the Headload Workers Rules, for any person to work as a headload worker in an area covered by a notification issued u/s 13 of the Kerala Headload Workers Act, is contained in Clause 6 of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 which reads thus:

6. Procedure for regulation of employment of headload workers on Scheme areas.--(1) No headload worker who is not a registered headload worker under the provision of the Kerala Headload Rules shall be allowed or required to work in any area to which the scheme applies from the date of commencement of the functional operation of scheme in the area.

(2) From the date of commencement of the functional operation of the scheme in any area, no headload worker who is not permanently employed by an employer

or contractor shall be allowed or required to work in any area to which the scheme applies unless he is granted a further registration under the provisions of this scheme.

To appreciate Clause 6 properly, it is necessary to look into the above said Section 13 of the Act Which reads thus:

13. Scheme.--(1) The Government may, by notification in the Gazette, make one or more scheme or schemes for any employment or group of employments in one or more area or areas specified in the notification, and by similar notification add to, amend or vary any such scheme or substitute Anr. scheme for any such scheme:

Provided that no such notification shall come into force unless a draft thereof is published in the Gazette and unless it is finalised after considering objections and suggestions received within one month of the publication of such draft in the Gazette.

(2) Subject to the provisions of this Act and the Rules made thereunder a scheme made under Sub-section (1) may provide for all or any of the following matters, namely:

- (a) for the welfare of headload workers;
- (b) for health and safety measures for headload workers;
- (c) for the constitution of any fund or funds including provident fund for the benefit of headload workers, the vesting of such funds, the payment of contributions to be made to such funds and all matters relating thereto;
- (d) for regulating the recruitment and entry into the scheme of headload workers and the registration of headload workers and employers including the maintenance of registers, removal either temporarily or permanently, of names from the registers and the imposition of fee for registration;
- (e) for regulating the employment of headload workers and the terms and conditions of such employment, including maternity benefit, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;
- (f) for pooling of headload workers who are not employed under any employer or contractor;
- (g) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed, including any contributions to be paid by employers and headload workers and the rate of such contribution;
- (h) for appointing persons and authorities who or which are to be responsible for the administration of the scheme and for the administration of funds constituted for the purposes aforesaid;

(i) for such incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the scheme;

(j) generally for making better provision as regards the terms and conditions of employment of headload workers.

(3) If any question arises whether any scheme applies to any class of headload workers, the matter shall be referred to the Government whose decision thereon shall be final.

(4) The Government may, by notification in the Gazette, add to the Schedule any establishment in respect of the headload workers whereof they are of opinion that a scheme should be made under this Act, and thereupon the establishment so added shall be deemed to be an establishment specified in the schedule for the purposes of this Act.

(5) Every notification under Sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Reading the above provisions together, it is clear that no headload worker can work in a scheme covered area, unless he has obtained a registration under Rule 26A of the Kerala Headload Workers Rules. If for working as a headload worker in a scheme covered area, registration under Rule 26A is mandatory, it defies logic as to how for registration under Rule 26A, Respondents 1 and 2 can insist that applicants who apply for registration under Rule 26A should be already headload workers working under the employer as proved by registers maintained as per Rules. For example take the case of a young man who comes of age and decides to pursue headload work as an avocation and means of livelihood for himself and his family. He finds an employer, but the employer tells him that he cannot employ him as a headload worker unless he gets a registration under Rule 26A, which the employer is bound to insist upon in view of Clause 6 of the Scheme. He files an application under Rule 26A. Can he be denied registration on the ground that he is not already a headload worker working under the said employer? I do not have to think twice to give a big "NO" as an answer because that is the only logical answer. If registration is denied to such an individual that would be violation of his fundamental right under Article 19(1)(g) of Constitution of India, which guarantees to every citizen of India the right to practice any profession, or to carry on any occupation, trade or business. No legislation can deny that fundamental right to a citizen. If there is a legislation denying such a

right to any citizen that would be unconstitutional and liable to be struck down as such or read down to make it constitutional. Therefore, if Rule 26A pre-supposes employment as a headload worker under an employer, for being eligible for registration under Rule 26A, that Rule would be unconstitutional insofar as it would violate the fundamental right of a citizen to engage himself in and carry on the profession of a headload worker, since under Clause 6 of the Scheme without registration under Rule 26A, he cannot engage himself in headload work. Consequently, Rule 26A has to be construed and read down so as to make it constitutional. It is true that in Form No. IX, which is the form prescribed for submitting application for registration under Rule 26A, name and address of the employer under whom the headload worker is working and the date of commencement of work under the employer are to be given. But under Clause 6 of the scheme, no headload worker who is not a registered headload worker under the provisions of the Kerala Headload Workers Rules shall be allowed or required to work in any area to which the scheme applies, from the date of commencement of, the functional operation of the scheme in that area. If without registration nobody can work as a headload worker, I fail to understand how a person who wants to start work as a headload worker for the first time can be insisted on to prove that he was already working under the employer as a condition for entertaining an application for registration. Therefore I am of opinion that Rule 26A and the Form IX should be so construed and read down that for getting registration, what is required is a good physic and, an employer who is prepared to engage the applicant as a headload worker and it is not necessary that he should have already been working under the employer under whom he seeks registration as headload worker for becoming eligible for such registration.

7. Of course, as pointed out by the learned Counsel for the Headload Workers Welfare Board, Clause 7 of the scheme contemplates registration of an employer also. His contention is that without the employer getting registration under Clause 7, he cannot employ headload worker in a scheme covered area. I am not satisfied that even in a scheme covered area, for employing permanent attached workers such registration is necessary. Clause 7 reads thus:

7. Registration of Employers,--(1) Every Employer in the area who engages or employs headload workers in or for an establishment for trade or business either directly or through a contractor shall register their names with the Committee along with such details and in the manner as may be specified by the Board within 30 days from the date of commencement of the functional operation of the Scheme in an area or within such further time that may be allowed by the Committee not exceeding 45 days.

(2) The employer who is not applying for registration within the specified time shall be liable to pay an additional fee of Rs. 5 per day for the entire period of delay.

(3) The employer shall also furnish necessary details or records to prove the

identity, correct address, ownership of the firm etc., when called upon to do so by the Chairman or convenor of the committee or an Officer authorised by the Board.

(4) A register of employers shall be maintained in the Committee showing the particulars of the employers registered.

Note.--An employer in the Scheme area who employs headload workers on a permanent and regular basis by maintaining the register of employment and wages in Form No. V of the Kerala Headload Workers Rules, 1981 under the said Rules shall be exempted from the registration under para 7, if such employer produces sufficient proof that he keeps all records in respect of such permanent headload workers as stipulated in the Kerala Headload Workers (Attached Group) Welfare Scheme, 1995 employed in the establishment and if he does not require the services of the headload workers covered in this Scheme.

As is clear from the Note to Clause 7, that registration under Clause 7 is compulsory only in cases where the employer wants to engage pool workers and not where the employer wants to engage his own permanent attached headload workers. The learned Counsel for the 5th Respondent would point out that the said Note indicates that the employer is required to produce sufficient proof that he keeps records in respect of such permanent headload workers as stipulated in the Kerala Headload Worker's (Attached Group) Welfare Scheme, 1945. Therefore if an employer does not maintain such records he is not entitled to engage permanent attached headload workers and get them registered under Rule 26A is his contention. I am of opinion that, that is a mis-reading of the said provision. An employer needs to maintain records only if he has headload workers. If he intends to engage a new headload worker, the question of maintaining a register in respect of that headload worker, arises only after the worker gets registration under Rule 26A because without registration the employer cannot engage a headload worker. Even otherwise, I am of opinion that the registration under Clause 7 is required only if the employer wants to engage pool workers and not if he employs his own permanent attached headload workers.

8. Although the said finding would be sufficient for the purposes of this case, insofar as Respondents 3 and 4 do not wish to work as a pool worker, but only as an attached worker of the Petitioner employer, I think that the question of eligibility of registration under Rule 26B in respect of unattached worker also needs to be considered, while deciding the question of law on the subject. Clause 6(2) of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983, stipulates that no headload worker who is not permanently employed by an employer or contractor shall be allowed or required to work in any area to which the Scheme applies unless he is granted a further registration under the provisions of the Scheme. Such registration is provided for in Clause 6A of the Scheme, which reads thus:

6A. Registration of Headload Workers under the Scheme at the commencement of the scheme.--At the commencement of the scheme in any area a headload worker who is not permanently employed by an employer or contractor and who is registered under the provisions of the Kerala Headload Workers Rules may submit his application in Form A to the Convener of the Committee concerned for registration in the Committee under the Scheme along with two passport size photographs.

(2) On receipt of an application for registration as above, the Convener of the Committee or an officer authorised by him in this behalf shall verify the application with Rules and after such enquiry as the Convener may deem fit and after giving the applicant an opportunity of being heard, may on his being satisfied that the applicant is eligible for registration under the scheme grant such registration to him by registering his name and particulars in the "Register of Headload Workers of the Committee" in Form D, and communicating the fact of the registration to the applicant in writing.

(3) All such Headload Workers registered under sub-paragraph (2) above shall be issued an identity card in Form C. One copy of the photograph duly attested by the Convener shall be affixed in the identity card and other copy affixed in the "Register of Headload Workers of the Committee" in Form D.

(4) If the application for registration in the committee is rejected the Convener shall communicate that fact to the applicant in Writing with reasons therefore forthwith.

In view of Clause 6B of the Scheme, there may be a discretion in the committee appointed u/s 18 of the Act to restrict the number of headload workers to be registered under Clause 6A. Clause 6B reads thus:

6B. Procedure for replenishment of workers in the rolls of the Committee.--

(1) During March of every year the Committee may assess the probable number of Workers that may be required additionally on account of retirement on superannuation, death, disability, resignation, removal and expansion of the scheme and resolve to register such number of additional workers in the Committee.

(2) Within two weeks of such resolution, the Convener of the Committee shall issue a notice inviting applications from those workers who have already been registered under the provisions of Kerala Headload Workers Rules for a period of at least two years prior to the date of the notice and working in that area. The notice inviting such applications shall be exhibited in the Notice Board of the Committee and such other public places as may be specified by the Committee in this behalf. A Copy thereof shall be communicated to the Kerala Headload Workers Welfare Board.

(3) Any person already registered under the provisions of the Kerala Headload Workers Rules for a period of at least two years prior to the date of notice

inviting the applications may within a period of 4 weeks from the date of that notice submit an application in Form A to Convener along with the photographs as required in sub-paragraph (1) of paragraph 6A of the Scheme.

(4) On receipt of such application the Convener may make such enquiries as he may deem fit and after giving the applicant an opportunity of being heard and in consideration of the seniority of Registration under the Kerala Headload Workers Rules, may grant registration and issue Identity Card as provided in sub-paragraphs (2) and (3) of paragraph 6A of the scheme.

(5) If any application for registration as per this paragraph is rejected the Convener shall communicate that fact to the applicant in writing with reasons therefore forthwith.

Going by these provisions in the Scheme, in order to get employment as a pool worker in a Scheme covered area registration under both Rule 26A of the Rules and Clause 6A of the Scheme are mandatory. Before applying for registration under Clause 6A when vacancies arise in a pool, a registration under Rule 26A is mandatory. The arguments in favour of granting registration under Rule 26A in the case of an attached worker would apply with equal force to registration under Rule 26A of unattached worker also. Just like an attached worker having an employer, a person who wants to engage himself in the profession as an unattached headload worker has a fundamental right to do so. Consequently he has a fundamental right to apply for registration as a pool worker whenever vacancies in the pool are notified. Since for applying for such registration, a registration under Rule 26A is mandatory, for such unattached workers also, if registration under Rule 26A is applied for, registration cannot be denied on the ground that he is not already a headload worker. I do not think that for granting of such registration he needs to wait till a vacancy arises in the pool. A registration under Rule 26A is akin to a registration with the Employment Exchange. To say that for becoming eligible for registration under Rule 26A one should already be a headload worker, amounts to saying that for registration in the Employment Exchange one should already be a person holding a job. Therefore such a condition is nothing but absurd. As such an unattached worker also cannot be denied a registration under Rule 26A on the ground that he is not already a headload worker, in so far as denial of such registration under Rule 26A to new entrants to the profession of headload work amounts to violation of their fundamental right guaranteed under Article 19(1)(g) of the Constitution of India.

9. Having settled the question of law thus, I shall now apply the same to the facts of this case. In Ext. P-7 order of the 2nd Respondent, there are certain definite findings in paragraph 8 thereof. In paragraph 8(b) thereof, he specifically finds that the 7th Respondent and two other workers who were employed in the establishment when it was started do not now work there and that presently Respondents 3 and 4, who are migrant workers from outside the State are being employed for headload work. Paragraph 8(c) specifically finds that no worker of the 6th Respondent's pool has worked in the establishment of the Petitioner

after the establishment started functioning. Of course there is a further finding in paragraph 8(g) that the Petitioner does not maintain records as per Rule 27 of the Kerala Headload Workers Rules. The above findings, which have not been challenged by Respondents 5, 6, and 7 would go to show that neither the 7th Respondent nor the 6th Respondent is entitled to stake any claim for headload work in the Petitioner's establishment. On the other hand as revealed by paragraph 4 of Ext. P-7, the specific contention of the 6th Respondent before the 2nd Respondent was that the 7th Respondent and two other workers, who were earlier engaged by the Petitioner, had left the shop leaving no attached headload worker in the Petitioner's establishment and that the Petitioner is getting headload work done by headload workers from outside the State, who do not have identity cards. Therefore even going by the contentions of the 6th Respondent himself before the 2nd Respondent, the pool workers of pool No. 42 are not entitled to do headload work in the Petitioner's establishment. That is sufficient to reject the contentions of Respondents 6 and 7.

10. My above findings are in consonance with the principles enunciated by the Full Bench of this Court regarding registration and employment of headload workers under the Kerala Headload Workers Act, and the Rules and Schemes framed under the same, in *Raghavan v. Superintendent of Police* 1998 (2) KLT 732 (F.B.) in paragraph 24 of which it is held thus:

24. In the light of the above discussion, following principles can be deduced. (1) The provisions under Chapter III of the Act are applicable to all headload workers coming within the definition of the term under the Act. (2) The definition would take in both permanent workers attached to an establishment as also workers engaged in the establishment from time to time. But, workers engaged for domestic purposes are excluded. (3) The provisions of the Act would be applicable only to those headload workers who are engaged in establishments coming under the Schedule u/s 2(j). (4) All headload workers including permanent workers attached to establishments are liable to get registered under Rule 26A. (5) In the areas where the Scheme is made applicable, no headload worker who is not a registered headload worker as per the Kerala Headload Workers Rule, shall be allowed or required to work in that area. It is also necessary that such headload worker shall get a registration under the provisions of the scheme. But, a headload worker who is permanently employed by an employer or a contractor is not liable to get registration under the scheme. (6) An employer is bound to maintain registers and records in respect of every headload worker employed by him as per the provisions contained under Rule 27 including supply of wage card to any headload worker. (7) It is open to the employer to engage his permanent headload workers attached to his establishment to do the loading and unloading work whether it is in an area where the Scheme is made applicable or not. (8) but, in an area where the scheme is made applicable, if the employer requires additional workers, he has to get them through the committee formed u/s 18 and in accordance with the provisions of the scheme. In an area where the scheme is not made applicable,

there is no such obligation on the part of the employer and he can engage workers of his own choice. But he will be bound to comply with the provisions of Rule 27 in respect of such headload workers also. (9) If a headload worker permanently attached to an establishment carrying on other work also, that, by itself, will not take him out of the definition of "headload worker" under the Act. It will depend upon the nature of the principal engagement and that again has to be decided on the facts of each case.

11. The result of the above discussion is that for a prospective headload worker to get registration under Rule 26A of the Kerala Headload Workers' Rules, all what is required is physical ability to do headload work. As for registration as an attached worker an added condition is readiness of an employer to employ him as a headload worker. The requirement that a person should have first worked as a headload worker under an employer in order to get registration under Rule 26A directly contradicts Clause 6 of the Kerala Head Load Workers (Regulation of Employment and Welfare) Scheme, 1983. Therefore Respondents 1 and 2 could not have validly rejected the applications submitted by Respondents 3 and 4 merely on the ground that the Petitioner had not produced records to show that they had worked under the Petitioner earlier. Therefore the Respondents 3 and 4 are entitled to registration under Rule 26A for doing headload work in the Petitioner's establishment, in so far as they are able bodied persons, who can work as headload workers and the Petitioner is ready to employ them as headload workers. Consequently Exts. P-7 and P-9 are unsustainable and hence quashed. The 2nd Respondent is directed to grant registration to Respondents 3 and 4 under Rule 26A of the Kerala Headload Workers Rules, considering Ext. P-4 applications submitted by them for that purpose. This shall be done within one month from the date of receipt of a copy of this judgment

The writ petition is allowed as above.