

(2015) 03 KL CK 0111

In the High Court Of Kerala

Case No : Writ Petition(C). No. 28342 of 2013 (P)

Ranjith R.

APPELLANT

Vs

The Institute of Human Resources Development (I.H.R.D)
and Others

RESPONDENT

Date of Decision : 18-03-2015

Acts Referred:

Citation : (2015) 03 KL CK 0111

Hon'ble Judges : A.V. Ramakrishna Pillai, J.

Bench : Single Bench

Advocate : Biju Abraham, for the Appellant; V.A. Muhammed, SC, Advocates for the Respondent

Final Decision : Allowed

Judgement

A.V. Ramakrishna Pillai, J.—The petitioner is aggrieved by the inaction on the part of the respondents in issuing an appointment order based on his eligibility as the next available candidate under the rank list to the Ezhava quota to the vacancy arisen as a result of non-joining of duty of the original candidate appointed.

2. The petitioner belongs to Ezhava community. He was an applicant to the post of last grade employees notified by the respondents. The petitioner appeared for the written test and interview. The revised rank list was published by the respondent on 18.9.2010 as per Ext.P1 notification. The petitioner was ranked as 125 in the list. The appointment of last grade employees in the respondent institution is made from the rank list on the basis of rotation chart followed by the Kerala Public Service Commission. The petitioner points out that 145 persons were appointed by the respondents from the rank list of which 13 persons did not join duty. However, the respondents did not appoint persons from the rank list to the vacancy which arose due to the non-joining of candidates. The petitioner also points out that two persons belonging to Ezhava community advised for appointment have not joined duty. The petitioner is the next person under

Ezhava community. The petitioner has produced Ext.P2 to show that two candidates from the Ezhava community have not joined duty. According to the petitioner, the attitude adopted by the respondents in not appointing the petitioner to the vacancy which arose on account of non-joining duty is illegal. It is with this background, the petitioner has come up before this Court.

3. In the statement filed by the respondents, it is contended as follows:

The Institute of Human Resources Development (IHRD) is an autonomous Educational Institution established by the Government of Kerala and registered under the provisions of Literary, Scientific and Charitable Societies Act, 1955 (12 of 1955). Under the aegis of IHRD, there are over 89 educational institutions all over the State as detailed below:

The control, administration and management of the Institute is vested with the governing body of IHRD under the Chairmanship of the Hon"ble Minister for Education (Ex-officio). There is an executive committee to look after the day to day functioning of the Institute which is also under the Chairmanship of the Hon"ble Minister for Education and with the Principal Secretary to Government, Higher Education Department, as Vice Chairman. Being an autonomous body IHRD have separate set of Service Rules as approved by the Government vide G.O.(MS) No. 159/89/H.Edn. dated 10.8.1989. Besides the Governing body of IHRD has formulated and issued Staff Pattern and Special Rules and Recruitment Policy for making appointment to various categories of posts and subsequent promotion etc.

The IHRD invited applications for recruitment to the post of Last Grade Servants under IHRD vide notification No. Rectt/03/09/HRD dated 31.1.2009. The validity of rank list was for a maximum period of three years from the date of publishing of the rank list. Government have ordered vigilance enquiry on matters relating to the appointments under IHRD from 2006 to 2011. This also includes the appointments made from the rank list prepared for Last Grade Servants. As action by the Vigilance Department is in progress, no parallel action can be pursued in the matter at present.

145 numbers of candidates were appointed from the rank list for Last Grade Servants, by observing communal rotation. However, 13 candidates did not report for duty. As the files relating to selection and appointment of Last Grade employees were taken up by the Vigilance Department of Enquiry, no further action was possible in this regard. Hence, the matter was kept in abeyance. Further action would be pursued on merits depending on the outcome of the vigilance enquiry. There was no wilful delay on the part of the respondent as alleged by the petitioner in the matter.

Government have ordered a vigilance enquiry on matters relating to the selection and appointments made to the category of Last Grade servants from the rank list published vide notification dated 18.9.2010. As the files relating to selection and appointment of last Grade servants have been handed over to the Vigilance

Department on demand, further action has been kept in abeyance till finalization of the enquiry. The matter is in progress.

4. Arguments have been heard.

5. The fact that the petitioner is included in the rank list and he is the next Ezhava candidate waiting appointment is not at all denied by the respondent. It is also an admitted fact that two candidates from the same community did not join duty and the vacancy is kept alive. Therefore, as the petitioner is entitled for appointment based on eligibility as the next candidate under the Ezhava quota to the post arisen on the basis of non-joining of duty of original appointed candidate, the inaction on the part of the respondents in not appointing the petitioner is without any valid reason. On a previous occasion, the petitioner and others filed a writ petition before this Court as WPC No. 19249/2011 in connection with the regularisation of casual employees. In that case, the respondent had given an assurance that the vacancies arising out of non-joining could be filled up taking immediate steps. However, no action has been taken by the respondents. Ext.P3 is the counter affidavit filed by the first respondent in this case.

6. As no genuine reasons are stated by the respondents in not appointing the petitioner, the only possible conclusion that can be arrived at is that the respondents are purposefully prolonging the issue and keeping the post unfilled.

Therefore, the writ petition is allowed. The respondents are directed to appoint the petitioner to the post which has arisen as a result of non-joining duty in the category of last grade servants. This shall be done within a period of two months from the date of receipt of a copy of this judgment. It is hereby made clear that the appointment shall be subject to the final outcome of the vigilance enquiry.