
(2010) 11 KL CK 0072

In the High Court Of Kerala

Case No : Writ Petition (C) No's. 33768, 33777, 33794 and 34070 of 2010 (U)

Ravindran and Others

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 11 KL CK 0072

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : Jacob Sebastian, for the Appellant; No Appearance, for the Respondent

Judgement

S. Siri Jagan, J.—The petitioners in these writ petitions are temporary drivers engaged by panchayats. They have filed these writ petitions apprehending termination from service. According to them, they are not liable to be terminated from service insofar as there are no sanctioned posts of drivers in the panchayats and no rank list prepared by the Public Service Commission for such appointment is in force. I had disposed of similar writ petitions in W.P. (C) No. 26662/2005 and connected cases, by the following judgment:

In all these writ petitions, the petitioners are drivers engaged on daily wages for driving vehicles of various Panchayats. They have filed these writ petitions apprehending termination from service. According to them, they are not liable to be terminated from service insofar as there are no sanctioned posts of drivers in the Panchayats and no rank list prepared by the Public Service Commission for such appointment is in force. Therefore, they seek a direction to the respective Panchayat in which they are working to continue them in service until a regular hand is appointed to the post.

2. I have heard the learned Government Pleader also.

3. None of the petitioners, except very few, have any case that they were

engaged as temporary drivers on daily wages after undergoing a selection process either through the employment exchange or by issuing notification inviting applications for such appointments. I am of opinion that insofar as there may be other candidates who are also eligible to be considered for such temporary appointment who were not given opportunity to apply for the post on account of the fact that no applications have been invited either through employment exchange or by inviting applications by public notice, such engagement of the petitioners without a selection process known to law, would violate the fundamental rights of those persons under Articles 14 and 16 of Constitution of India. For all public employments, even if temporary, all persons who are eligible to be considered should be given a chance for participating in the selection process. As such, it would be violative of the fundamental rights of those persons to allow the petitioners to continue in service insofar as they have not been selected after a selection process giving opportunity to others also to compete for selection to the post. In the above circumstances, these writ petitions are disposed of with the following directions:

The concerned Panchayats, if they wish to engage drivers on temporary basis on daily wages to drive any of their vehicles, shall conduct a selection for such appointments, after inviting applications from all who intend to apply for the said engagement by a selection process known to law and complete the process of selection and appointment as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Only persons so selected shall be allowed to occupy the post. The petitioners shall be allowed to continue in service for a period of two months. The petitioners shall also be allowed to apply in the selection process and their candidature shall also be considered along with those of other applicants who apply. However, in cases where any of the petitioners in these writ petitions have been appointed as temporary drivers on daily wages, after conducting a selection process known to law viz. after inviting applications from the public and making a selection from applicants, the above direction shall not be applicable in those cases and they shall be allowed to continue in service until a regular hand is appointed after sanction of the post of driver or the Panchayat continues to require the service of the petitioners.

Accordingly, these writ petitions are disposed of in terms of the above judgment.