
(2010) 09 KL CK 0290

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 27338 of 2010 (N)

S. Sasi, Staff Car Driver Grade II

APPELLANT

Vs

The Rubber Board and Others

RESPONDENT

Date of Decision : 15-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0290

Hon'ble Judges : K.T. Sankaran, J

Bench : Single Bench

Advocate : Sreedevi Kylasanath, for the Appellant; V. Abraham Markos, for the Respondent

Final Decision : Allowed

Judgement

K.T. Sankaran, J.—In the manner in which I propose to dispose of the Writ Petition, I do not think it is necessary to issue notice to respondents 3 to 6. Standing Counsel takes notice for respondents 1 and 2.

2. The case of the petitioner is the following: The petitioner was appointed as driver under the second respondent on 15.1.1986 on the basis of a selection. Disciplinary proceedings were initiated against the petitioner for misconduct and he was suspended from service as per the order dated 13.12.1995. Enquiry was conducted. The enquiry officer found that the charges were not established. However, the disciplinary authority did not agree with the enquiry officer. A penalty of withholding of two increments for a period of two years without cumulative effect was imposed on the petitioner.

3. It is stated that the second respondent took a lenient view in the matter and ordered to treat the period of suspension of the petitioner from 18.12.1995 to 17.7.1996 as period spent on duty for all purposes including pension. The grievance of the petitioner is that thereafter, he was denied grade promotion even after the expiry of the period of punishment. It is submitted that there is nothing on record in the confidential reports so as to deny promotion to the

petitioner. The petitioner relies on Ext.P3 sealed cover proceedings in support of this contention.

4. Challenging the order imposing punishment, the petitioner had filed O.P. No. 17981 of 2001 which was allowed as per Ext.P4 judgment dated 14.7.2006. The respondents filed a Review Petition seeking to review Ext.P4 judgment. It is submitted by the standing Counsel for respondents 1 and 2 that the Review Petition was allowed and the Writ Petition is pending.

5. The petitioner submits that the third respondent, who is junior to the petitioner was given grade promotion while the petitioner was not given the grade promotion due to him. Pointing out his grievance, the petitioner has submitted Ext.P8 representation dated 30.7.2010 to the second respondent. The second respondent has not disposed of Ext.P8 representation.

6. The reliefs prayed for in the Writ Petition are the following:

(i) to issue a writ of certiorari or any other writ or order calling for records relating to Ext.P7 and quash the same to the extent it gives promotion to third respondent as Staff Car Driver (Special Grade)

(ii) to issue a writ of mandamus or any other writ or order directing respondents 1 and 2 to promote petitioner as Staff Car Driver (Special Grade) with effect from the date his juniors respondents 4, 5 and 6 are given promotion as the Staff Car Driver (Special Grade)

(iii) to issue a writ of mandamus or any other writ or order directing respondents 1 and 2 to give petitioner his correct seniority in Ext.P6 Gradation List

(iv) to issue a writ of mandamus or any other writ or order directing second respondent to consider Ext.P8 and pass orders after hearing the petitioner

(v) to pass any other appropriate writ or order or direction which this Hon'ble Court deem fit and proper in the circumstances of the case.

7. The learned Counsel for the petitioner submitted that for the time being, the petitioner would be satisfied, if relief No. iv is granted. The request is just and reasonable. Accordingly, the writ Petition is disposed of as follows:

(a) The second respondent shall consider and dispose of Ext.P8 representation, after affording an opportunity of being heard to the petitioner and respondents 3 to 6 and any other affected party

(b) All the contentions of the petitioner are left open

(c) The petitioner shall send a copy of the judgment to respondents 3 to 6 by registered post and shall produce proof of the same before the second respondent

(d) The second respondent shall dispose of Ext.P8 within a period of one month from the date of receipt of a copy of the judgment

The Writ Petition is allowed in part as above.