

(2007) 09 KL CK 0040
In the High Court Of Kerala
Case No : WP (C) No. 25166 of 2007 (U)

Santhi V.

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 17-09-2007

Acts Referred:

Citation : (2007) 09 KL CK 0040

Hon'ble Judges : V. Giri, J

Bench : Single Bench

Advocate : U. Balagangadharan, for the Appellant; M. Ajay, for the Respondent

Final Decision : Dismissed

Judgement

V. Giri, J.—The petitioner, a graduate in commerce with six months training in Office Management and Automation, as evidenced by Ext.P1(b), was appointed as Accountant, on contract basis in Integrated Disease Surveillance Project under the National Rural Health Mission, as evidenced by Ext.P3. Ext.P3 shows that the original engagement was for a period of one year. Apparently, agreement was executed at the time of the original engagement/appointment as well, where the period of contract is shown as one year or until further orders. The petitioner completed one year. There was a break in service of 3 days, which according to the petitioner, was artificial. Be that as it may, there was a fresh contract for a period of one year as evidenced by Annexure I produced along with the statement filed by the 4th respondent. Annexure I shows that the fresh contract, commenced on 05.03.2007, will be in force for a period of one year or until further orders. Apparently, this is a standard clause in the contract incorporated in other agreements as evidenced by Ext.P11 produced by the petitioner herself. Though the petitioner originally raised a contention that her service cannot be dispensed with during the currency of the renewed agreement/fresh agreement, the said contention does not require a detailed appraisal in as much as that, in all other agreements executed by different persons, engaged in the same project, the clause seems to be the same. Mainly the contract period is for one

year, except where a decision is taken to terminate it ahead of the expiry of one year.

2. The main grievance voiced by the learned Counsel for the petitioner centres around Exts.P8 and P9. Ext.P8 is the notification now issued by the State Mission Director (Arogyakeralam) attested by Director of Health Services, under the National Rural Health Mission. The same invites application for certain posts in the District Programme Support Unit under the National Rural Health Mission. The qualification prescribed for the post of Accountant in the District is B.Com with P.G.D.C.A and also at least three years experience. The learned Counsel for the petitioner contends that this prescription in Ext.P8 is inconsistent with the guidelines formulated by the National Rural Mission. Insofar as the accountant of the District Surveillance unit is concerned, the qualification prescribed in Ext.P9 is graduation with minimum three years experience of Accounts Management, preferably in a Government set up. According to the petitioner, the qualifications prescribed in Ext.P9 guidelines, have been varied in Ext.P8 and this is illegal.

3. In the statement filed by the 4th respondent it is contended that in 2006, the qualification prescribed for the post of Accountant was graduation with minimum three years experience as accountant, preferably in a Government set up. The post is a temporary one, for which, consultants are engaged on contract. A revision in the qualification, as currently contained in Ext.P8 is said to be justified in the following manner:

Sl. Name of Post Vacancy Qualification Experience Salary & Mode of No. appointment
Consultant Trivandrm M.Com with 5 years of Consolidated salary
(Finace) IDSP PGDCA experience of Rs.10,000/- pm 1 Wing on contract basis

Adminstrative 1 at Graduate, 3 years of Consolidated salary Assistant-15
Headquartes Computer relevant experience of Rs.5,000/- pm on posts and 1
each literate contract basis in 14 2 districts Accountant 1 each in 14 B.Com with
At least 3 Consolidated salary districts years PGDCA experience of Rs.7,000/-
pm on 3 contract basis 4. There seems to be a good reason, which has
persuaded the respondents in issuing Ext.P8 in prescribing a higher qualification
for appointment to the post of Accountant. The power of the respondents to
prescribe a higher qualification cannot be disputed, nor is it actually disputed.
The challenge against Ext.P8 seems to be on the premise that it is apparently
inconsistent with Ext.P9. As I note, Ext.P9 has no statutory force. It was
formulated at the time when the Surveillance Projects were in a nascent stage.
There seems to be nothing arbitrary or otherwise unreasonable in the
respondents considering the persons with higher qualification, for
implementation of the project, as and when the project reaches more advanced
stages. Had it been a case of dilution of the qualification originally prescribed,
the contention regarding arbitrariness or recruitment of persons of choice on
extraneous considerations could have been countenanced. The situation is quite
the reverse in the present case. For all these reasons, I do not find any merit in
the writ petition and the same is dismissed.