

(2014) 02 KL CK 0055
In the High Court Of Kerala
Case No : OP (CAT). No. 979 of 2012 (Z)

Senior Supperintendent of Post Offices	APPELLANT
Vs	
Mini K.P.	RESPONDENT

Date of Decision : 18-02-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2014) 02 KL CK 0055

Hon'ble Judges : T.B. Radhakrishnan, J;A. Muhamed Mustaque, J

Bench : Division Bench

Advocate : S. Krishnamoorthy, CGC Adv, Advocate for the Appellant; O.V. Radhakrishnan (Sr.), Smt. K.R. Adhamani Amma, Sri. Antony Mukkath, Sri. K. Ramachandran (Thykoodam) and Sri. O.F. Justin, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—We have heard the learned senior panel counsel for the central government and the learned counsel appearing for the different respondents in these original petitions.

2. As noted in the order dated 03.04.2013, the crux of the arguments on behalf of the Establishment, is the contents of the letter of D.G. Posts issued on 06.06.1988. The plea set up has nothing to do with the selection, for which applications were invited as per the notification that led to the litigations before the Tribunal.

3. Though we had called for certain affidavits by way of clarifications and such affidavits and counter affidavits are placed, we think that the issue set up and sought to be raised through those affidavits are not germane to the issue in hand. In terms of jurisdiction under Article 227 of the Constitution of India as laid down in L. Chandra Kumar Vs. Union of India and others, , we have to look into the issue as to whether there is any ground for interference with the order of the Tribunal.

4. Adverting to the orders impugned in these original petitions, we see that the respondents were eligible to be treated as casual labourers de hors whether they were full-time or part-time and for that purpose, 240 days in an year has to be reckoned for one year service, because one year service is prescribed in terms of that letter of D.G., Posts. That being so, the learned Tribunal has considered the different precedents referred to by it, in the context of the said letter of D.G. Posts to conclude that if merit is treated as a sole criterion, then perhaps, the chance of casual labourers becoming GDS would be as rare as their chances for absorption in "Group D" Posts. The whole purpose behind the letter dated 06.06.1988 has been expressed by the learned Tribunal in paragraph 18 of the impugned order in O.P(CAT) No.979 of 2012. The Tribunal has rightly treated that the said group of persons are eligible to be considered as belonging to a preferential class, also applying the ratio of the precedents laid down by the Hon"ble Supreme Court of India, as referred to in the order of the Tribunal. We also record that the learned counsel for the contesting respondents have brought to our notice the decision of this Court in O.P(CAT) No.4501 of 2013, which dealt with the question of persons who are entitled to the benefit of counting the casual service as noted above for benefit of such appointment. Under such circumstances, the conclusion of the Tribunal that preferential class has to come to the part-time and full-time casual employees in the Sub Division before opening up the arena of GDS BPM to the open market, cannot be found fault with. We do not see any jurisdictional infirmity or illegality in the orders impugned. These original petitions, therefore, fail.

In the result, these original petitions are dismissed.