

(2000) 08 KL CK 0070
In the High Court Of Kerala
Case No : W.A. No. 530/95

State of Kerala and Others

APPELLANT

Vs

V. Sreekantan Nair

RESPONDENT

Date of Decision : 17-08-2000

Acts Referred:

Kerala Service Rules, 1958 — Rule 33

Citation : (2000) 2 KLJ 524

Hon'ble Judges : Kurian Joseph, J;K.A. Abdul Gafoor, J

Bench : Division Bench

Advocate : L.G. Suresh Babu, Govt. Pleader, for the Appellant; Pirappancode and V. Sreedharan, for the Respondent

Judgement

Abdul Gafoor, J.—State is aggrieved by the judgment in O.P. No. 7771/90.

2. Writ Petitioner while working as U.D. Clerk in the Ministerial Wing of the Police Department, got appointment as Sub Inspector. He was relieved from the post of U.D. Clerk and sent for training. His appointment as Sub Inspector was against the specified quota reserved as per the special rules for ministerial staff for appointment as Sub Inspector in the General Executive Branch. He was not a direct recruit from out of the open quota. His case is that during the period of training he shall be given due increment in the scale of pay on U.D. Clerk, his parent post, on the date when it fell due. This request was not conceded to by Government on the ground that his pay as Clerk was only protected, while he was undergoing training. It was consider as stipend. He was not a scale of pay during the training period to get increment. Therefore, that period could not have been counted for increment. He approached this Court against the decision of the Government. Relying on another decision, of a Division Bench in W.A. 757/91, the learned Single Judge, granted the prayer of the Petitioner and directed fixation of pay after granting increments on the dates when the same fell due during the course of his training.

3. It is contended by the Government Pleader that the view taken by the learned

single judge is not in consonance with Rule 33 Part I K.S.R. that only duty in a particular time scale alone will count for increment. At the time of training he was not in the time which he was holding before sending for training with effect from 22nd June 1981.

4. The contention of the Government Pleader would, have been correct if the writ Petitioner was a direct recruit from open market. But the writ Petitioner was appointed as Sub Inspector on selection against the quota reserved for Ministerial staff of the Police Department. In such case Note 2 of Rule 33(e) will be attracted. The Writ Petitioner, being an officer who, while officiating in the post of U.D. Clerk proceeded for training as Sub Inspector will be entitled to treat the training period as duty and accordingly he can count such period of training for increment in the post in which he was officiating prior to his training. Thus, we are of the view that there is no reason for interference with the judgment.

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