

(2022) 10 KL CK 0061

In the High Court Of Kerala

Case No : Original Petition (KAT).No.114 Of 2022

State Of Kerala

APPELLANT

Vs

A.V. Jayakumar

RESPONDENT

Date of Decision : 10-10-2022

Acts Referred:

Citation : (2022) 10 KL CK 0061

Hon'ble Judges : A.K.Jayasankaran Nambiar, J;Mohammed Nias C.P., J

Bench : Division Bench

Advocate : Bijoy Chandran, T.B.Mini

Final Decision : Dismissed

Judgement

A.K. Jayasankaran Nambiar, J.

1. The State and its Officers are the petitioners herein, aggrieved by the order dated 1.8.2019 in O.A.(Ekm).No.1763/2018 before the Kerala Administrative Tribunal. The brief facts necessary for disposal of the O.P.(KAT) are as follows:

2. The applicants before the Tribunal were SLR workers in the Irrigation Department. They claimed the benefit of the Government order dated 20.1.1990 that regulated the future career prospects of CLR workers in the service. As per the G.O. aforementioned, which was produced as Annexure A1 in the O.A., CLR workers in the Public Works Department could be appointed to regular service on certain conditions as spelt out in the G.O. The conditions were as follows:

"(i) CLR worker will be appointed directly to the vacancies in the regular service created for the appointment of NMR workers to the extent of vacancies available at present.

(ii) After the vacancies in the regular service are filled up as above, the other CLR workers will be appointed to the vacant SLR posts.

(iii) Those appointed to SLR posts will also be appointed to regular posts as and

when vacancies arise in the posts created for appointment of NMR workers.

(iv) The CLR workers to be appointed to regular service/SLR posts should have been in service on or before 19.5.1988 and they should have put in a minimum service of 100 days as on 1.4.1987. Those CLR workers appointed on or before 19.5.1988 and have not completed 500 days of service as CLR workers on 1.4.1987 will be eligible for absorption as SLR worker according to the orders in G.O. (P)No.106/85/PW&T dated 17.9.1985, but they will not be eligible for appointment to regular posts.

(v) The absorption/regularisation shall be strictly in accordance with their seniority as CLR workers.

(vi) The seniority of CLR workers shall be reckoned with reference to the number of days they have worked as on 19.5.1988.

(vii) The Service of CLR workers are mostly needed in the Irrigation Department and the posts intended for their absorption are mainly in the Public Works Department. When these posts are shifted to the Irrigation or other branches where the SLR and the CLR workers are now employed they may not have work year around if they perform only their present duties in these departments. Therefore, during the off-season the CLR workers absorbed against these posts will do any other job ordinarily done by regular workers."

2. The applicants were initially appointed as Hand Receipt workers [HR workers]. They had approached the Government and the High Court for getting the benefit of the aforementioned G.O. inter alia contending that there was no material difference between a CLR worker and an HR worker for the purposes of the aforementioned G.O. The said contention was accepted by the High Court by judgment dated 2.1.2002 in O.P.No.19745/1997. The Government was therefore directed to consider the claim of the applicants to treat them as CLR workers on merits in the light of the G.O. dated 20.1.1990. When the Government did not pass any orders thereafter, the applicants approached the Tribunal seeking the benefit of the G.O. dated 20.1.1990. In the O.A., they claimed that they were entitled to be absorbed as SLR workers with effect from 20.1.1990, the date of the G.O. and for consequential benefits. The Tribunal, by the impugned order dated 1.8.2019 in O.A. (Ekm).No.1763/2018, found that the applicants were entitled to be regularised with effect from 20.1.1990 and they were also entitled to all the consequential benefits arising therefrom [Ext.P6].

3. The Government thereafter acted upon the direction of the Tribunal and granted the benefit of retrospective regularisation from the date of Annexure A1 G.O subject to the rider that monetary benefits would be available only from the date of the order granting the benefit of regularisation. Aggrieved by the said G.O., to the extent it did not grant the monetary benefits, the applicants once again approached the Tribunal through M.A.(Ekm).No.122/2021 in O.A. (Ekm).No.1763/2018. The Tribunal found that having regularised the services as SLR with effect from 20.1.1990, there was no justification in denying the

consequential benefits from the date of regularisation. It is therefore that the petitioners have assailed the main order of the Tribunal in O.A. (Ekm.)No.1763/2018 wherein, the finding of the Tribunal was that the applicants stood entitled to receive the monetary benefits consequent to their regularisation as SLR workers from 20.1.1990 itself.

4. Before us, the contention of Sri.Bijoy Chandran, the learned Government Pleader on behalf of the petitioners is essentially that although the CLR/HR workers were not entitled to an automatic regularisation as SLR workers from the date of Annexure A1 G.O, the Government had taken a lenient view in the matter and granted them the said regularisation with effect from 20.1.1990, on the specific contention that the said regularisation would entitle them only to certain benefits. It is contended that the only monetary benefit, to which the applicants were entitled, was a revision of their pay as was done on 3.4.2021 by fixing it notionally from 20.1.1990. It is also his contention that the delayed regularisation albeit with retrospective effect from 20.1.1990 came about only because the applicants were initially not seen as entitled to the benefits of Annexure A1 G.O since there was a dispute as to whether HR workers and CLR workers could be treated similarly. The clarification in this regard came only subsequently through the judgment of the High Court aforementioned and consequently the benefit of regularisation could be granted to the applicants only subsequently albeit with retrospective effect.

5. Per contra, Smt.T.B.Mini, the learned counsel appearing on behalf of the applicants would justify the conclusion of the Tribunal in the order impugned in this O.P.(KAT) and maintain that once the Government had recognised that the applicants were entitled to regularisation as SLR workers with effect from 20.1.1990, there was no justification whatsoever for withholding the consequential monetary benefits that flowed from such regularisation.

6. On a consideration of the rival submissions, we are inclined to accept the contention of the learned counsel for the applicants. While it may have been the stand of the Government that the G.O. dated 20.1.1990 did not contemplate an automatic regularisation of CLR/HR workers as SLR workers with effect from the date of the G.O., the Government, for reasons best known to it, chose to accept the order of the Tribunal and grant the benefit of regularisation to the applicants with effect from 20.1.1990. Having adopted that stand, we find no justification for denying the applicants the consequential benefits including monetary benefits that flowed from such retrospective regularisation.

In the result, we see no reason to interfere with the order of the Tribunal impugned in this O.P.(KAT). The O.P.(KAT) fails, and is accordingly dismissed.