
(2022) 10 KL CK 0068

In the High Court Of Kerala

Case No : Original Petition (KAT) No. 125 Of 2022

State Of Kerala

APPELLANT

Vs

P.V.Unnikrishnan

RESPONDENT

Date of Decision : 10-10-2022

Acts Referred:

Citation : (2022) 10 KL CK 0068

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

Bench : Division Bench

Advocate : Bijoy Chandran, Deepu Lal Mohan

Final Decision : Allowed

Judgement

A.K. Jayasankaran Nambiar, J.

1. The State and its Officers are the petitioners herein, aggrieved by the Order dated 7.1.2021 in O.A.No.122 of 2017 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 engaged as CLR workers in the Kuttiyadi Irrigation Project. 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."

3. On a representation preferred by the applicants claiming benefit of the aforementioned G.O., and pursuant to directions issued by this Court in Contempt Cases that came to be filed at the instance of the applicants, the Government, through a G.O. dated 30.6.2012 [Annexure A6] accorded sanction to the Chief Engineer (Administration) of the Public Works Department to include the names of the petitioners in the CLR seniority list as on 19.5.1983, taking note of the fact that they had rendered only 32 days of service before 19.5.1983 and that they did not have the minimum service of 500 days as on 1.4.1987 for appointment to regular posts. By a consequential order passed by the Chief Engineer on the same day [Annexure A7], the applicants were directed to be nominated to the SLR cadre with effect from the date of joining duty in the said cadre.

4. The applicants approached the Tribunal claiming that their nomination in the SLR cadre had to be with effect from the date of Annexure A1 G.O., namely, 20.1.1990, and the said contention was accepted by the Tribunal. While doing so, the Tribunal relied on Annexure A11 order of the Tribunal that was rendered in a similar case.

5. Before us, it is the contention of Sri.Bijoy Chandran, the learned Government Pleader that although it may be a fact that the litigant in Annexure A11 order had obtained the benefit of appointment as SLR with effect from 20.1.1990 and that the said order of the Tribunal was confirmed by the High Court in Annexure

A12 judgment in O.P.(KAT)No.204 of 2015, the applicants herein were not similarly situated more so when they had not produced any record to show that their immediate juniors in service as CLRs had been nominated as SLR workers prior to 30.6.2012, the date with effect from which they were nominated as SLR workers.

6. Per contra, the learned counsel for the respondents/applicants would justify the reasons in the order of the Tribunal impugned in this O.P.(KAT).

7. On a consideration of the rival submissions, we find force in the contention of the learned Government Pleader that the applicants in the instant case cannot be treated at par with the applicant in Annexure A11 order of the Tribunal that was confirmed in Annexure A12 judgment of this Court. A mere perusal of Annexure A1 G.O. would clearly reveal that it never envisaged the automatic nomination of CLR workers as SLR workers with effect from the date of the G.O. On the contrary, what was contemplated was that the CLR workers would be appointed to vacant SLR posts based on their seniority as CLR workers. Further, the said G.O. also rendered the applicants ineligible for appointment to regular posts since, admittedly, they had not completed 500 days of service as CLR workers on 1.4.1987. It was perhaps taking note of the fact that the applicants had not produced any document to show that they had rendered adequate service as would qualify them to be nominated as SLR workers prior to 30.6.2012 that they were nominated as SLR workers only with effect from the date on which they joined duty as SLR workers consequent to Annexure A7 order. Even before us, the learned counsel for the applicants was not able to produce any material that suggested that any of the immediate juniors of the applicants had been nominated as SLR workers on any date prior to 30.6.2012. Under such circumstances, we are inclined to agree with the contention of the learned Government Pleader that the nomination of the applicants as SLR workers would take effect only from 30.6.2012 and not prior to that. In this view of the matter therefore, we allow the O.P.(KAT) by setting aside the impugned order of the Tribunal and holding that the respondents/applicants can claim to be nominated as SLR workers only with effect from 30.6.2012, the date of Annexure A7 order.

The O.P.(KAT) is allowed as above.