

(2015) 07 KL CK 0201

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23511 of 2014 (L)

Subash K.V. and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 29-07-2015

Acts Referred:

Citation : (2015) 07 KL CK 0201

Hon'ble Judges : V. Chitambaresh, J

Bench : Single Bench

Advocate : T.P. Pradeep and P.K. Sathees Kumar, for the Appellant; Gikku Jacob, Government Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

V. Chitambaresh, J—The delayed appointment of the petitioners in service notwithstanding the existence of vacancies was the subject matter of WA. No. 1631 of 2007 and connected cases by this Court. Ext. P4 judgment dated 24.6.2008 rendered therein inter alia observed as follows:-

"Considering the number of empanelled conductors, employment exchange conductors and conductors appointed through open source etc. as existed on 31.12.2004 and considering the vacancies, we are of the opinion that at least 2212 vacancies should have been appointed from the list as those vacancies arose before the expiry of rank list on 31.12.2004. Even though more than 5,000 vacancies are still existing, at present there is no list and it is submitted that it will take long time to finalise the list as notification is published only now. Though 2212 vacancies were reported, only 869 were advised as per the interim order and the balance to be advised is 1343 vacancies. The PSC should immediately send advice of 1343 candidates from the rank list which expired on 31.12.2004 and to which vacancies were already existed. No appointment as daily wage conductors shall be made through open source. If more daily wage conductors are required, they shall be appointed from the unadvised candidates in the expired rank list or from the candidates sponsored by Employment

Exchanges."

It was pursuant thereto were the petitioners appointed in the Kerala State Road Transport Corporation by Ext. P2 and similar orders.

2. It was not pursuant to GO. (MS) No. 77/2011/Tran. dated 22.12.2011 were the petitioners appointed and the same apply to another set of candidates. The contention of the petitioners is that their services ought to be regularised from 31.12.2004 itself and consequential benefits disbursed. Reliance is placed on Exts. P5 and P6 orders issued by the respondents permitting regularisation from a date anterior to the date of regular appointment. This precise question was directed to be considered in Ext. P9 judgment in W.P. (C) No. 31854/2013 filed by the petitioners herein.

3. Ext. P10 memorandum negating the claim of the petitioners for regularisation from 31.12.2004 is impugned in this writ petition. Ext. P10 order proceeds as if the petitioners were appointed as per GO (MS) No. 77/2011/Tran. dated 22.12.2011 which is not so. Appointees pursuant to the Government order afore-quoted would of course be bound by the terms contained therein. But the petitioners were appointed pursuant to Ext. P4 judgment and they have made out an arguable case in the light of Exts. P5 and P6 orders. The petitioners also rely on the judgment in Secretary, State of Karnataka and Others Vs. Umadevi and Others, AIR 2006 SC 1806 : (2006) 6 CompLJ 1 : (2006) 4 JT 420 : (2006) 2 LLJ 722 : (2006) 4 SCALE 197 : (2006) 4 SCC 1 : (2006) 3 SLJ 1 : (2006) AIRSCW 1991 : (2006) 3 Supreme 415 and State of M.P. and Others Vs. Lalit Kumar Verma, AIR 2007 SC 528 : (2007) 112 FLR 345 : (2006) 12 SCALE 642 : (2007) 1 SCC 575 : (2007) 1 SCC(L&S) 405 : (2006) 9 SCR 591 Supp in support of their contentions.

4. I quash Ext. P10 order and direct the second respondent to reconsider the claim of the petitioners for regularisation in service with effect from 31.12.2004 itself. Exts. P5 and P6 orders as well as the decision afore-stated shall be adverted to in the exercise. The needful shall be done with notice to the first petitioner within a period of two months from today.

The Writ Petition is disposed of.