
(2009) 04 KL CK 0064

In the High Court Of Kerala

Case No : Writ Petition (C) No. 11815 of 2009

The Chief General Manager, Telecom, The Principal General
Manager and The Director General

APPELLANT

Vs

The Central Administrative Tribunal and Joby. C.M.

RESPONDENT

Date of Decision : 08-04-2009

Acts Referred:

Citation : (2009) 04 KL CK 0064

Hon'ble Judges : M.L. Joseph Francis, J;K. Balakrishnan Nair, J

Bench : Division Bench

Advocate : K. Ramakumar, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

K. Balakrishnan Nair, J.—The respondents in T.A. No. 25/2008 before the Central Administrative Tribunal, Ernakulam Bench are the writ petitioners. The subject-matter of the T.A was the claim of the 2nd respondent for appointment under the dying-in-harness scheme. Pending final disposal of the matter, the Tribunal, after hearing both sides, passed Ext.P5 interim order. the said order reads as follows:

This case was finally heard on 10.2.2009 and it was reserved for orders. Counsel for the respondents was directed to produce the relevant records. The contention of the respondents throughout the reply statement as well as during the arguments was that the applicant was considered during the Circle High Power Committee Meeting held on 5.6.2003 and it approved his appointment in a Group D post due to non- availability of suitable Group C post.

The respondents did not produce the records for quite some time. Thereafter, the counsel for the respondents was again contracted by the Registry (PS) to ensure that the records are produced in the Tribunal. Reluctantly the respondents produced a few photo copies of the documents without producing the note-sheets and the entire file in original. However, from the photo copies produced by the respondents it is seen that the aforesaid Committee recommended the

applicant for appointment to the Group C post of TOA on compassionate ground in relaxation of the Recruitment Rules in Ernakulam SSA subject to verification of certificate in proof of qualification. It is not known at what stage the manipulation had taken place in the respondents' office and converted his appointment in a Group D post.

The Tribunal believes in the submissions of the BSNL, being a Central Govt. Undertaking. We expect that BSNL would behave in (a) responsible manner as expected of a responsible public sector undertaking. Filing false affidavits before the Court is a very serious matter. Apart from the consequences to be faced by the officer who filed the false affidavit, the credibility of the organisation itself (is) in doubt before the Court.

I, therefore, in the first instance, direct the General Manager to look into this matter seriously and take remedial measures immediately including appointment of the applicant as TOA as recommended by the Circle High Power Relaxation Committee. Shri.PMM Najeed Khan, counsel for the respondents, being an officer of this Court, shall also ensure that the entire records in original properly flagged shall be produced in the Court on the next date of hearing. List as Part- Heard on 27.5.2009.

Aggrieved by the above order, this Writ Petition is filed by the respondents in the T.A.

2. The writ petitioners point out that the 2nd respondent/applicant was cleared for appointment in the Group C post of TOA. But, by a mistake, it was stated in the reply statement as Group D post. Because of the ban introduced by the Corporate office of the BSNL, the applicant cannot be offered appointment in Group C post. But, the Tribunal has passed a peremptory order to appoint the applicant as TOA. In view of the ban on appointment, it may not be possible to appoint him now. Further, it is pointed out that pending disposal of the T.A., it was not proper to issue such a direction. Therefore, the writ petitioners pray for the intervention of this Court.

3. Having regard to the nature of the order passed and the reasons given by the Tribunal for the same, we feel that the writ petitioners should first move the Tribunal itself, place the relevant facts and pray for recalling or modifying the direction to appoint the 2nd respondent/applicant. The writ petitioners are mainly aggrieved by the said direction. We feel that at this stage, it is not proper for this Court to interfere with the matter. Accordingly, the Writ Petition is dismissed, but without prejudice to the contentions of the petitioners and their right to approach this Court again, if occasion arises in future.