

(2001) 09 KL CK 0025
In the High Court Of Kerala
Case No : O.P. No. 7666 of 2001

Trivandrum District Headload Workers Union

APPELLANT

Vs

District Labour Officer

RESPONDENT

Date of Decision : 06-09-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Kerala Headload Workers Rules, 1992 — Rule 26A, 26A(3), 26A(4), 26C

Citation : (2002) 1 KLJ 215

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

Bench : Single Bench

Advocate : K.P. Satheesan, K.K. Gopinathan Nair, M.R. Jayaprasad, N.V. Ajayakumar, K.K. Rajeev and S. Vibheeshanan, for the Appellant; Praicy Joseph, Government Pleader and D. Kishore, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—First petitioner is the President of a trade union, of which, petitioner 2 onwards are the members. According to them, they are the headload workers. They are doing headload work in the area of P.M.G. Junction in Thiruvananthapuram and they are attached to the District Store, Irrigation Department and the Store of the Road and Bridges Wing of the PWD, here in after referred to as Government Stores for brevity. They applied for registration under Rule 26A of the Kerala Headload Workers Act. Their applications were allowed and they were issued with identity cards as headload workers in that area. According to respondent No. 3 onwards, the petitioner No. 2 onwards were doing only 50% of the unloading work. Therefore, the District Labour Officer should not have issued identity cards to petitioner No. 2 onwards to work as headload workers for both loading and unloading. The petitioners filed an appeal under Rule 26C before the District Labour Officer. The appellate authority, after hearing both sides, passed Ext. P4 modifying the registration given to petitioners 2 onwards to the effect that they shall be entitled to 50% of the unloading work available in the Government stores mentioned above. It is in the above

circumstances, the petitioners have challenged Ext. P4.

2. One among the main contentions raised by the petitioners against Ext. P4 is that the appellate authority did not have jurisdiction to interfere with an order granting identity cards. An appellate authority can entertain an appeal against orders passed under Sub-rule (3) or (4) of Rule 26A of the Act. The issuance of identity cards to the petitioners 2 onwards is not an order under Sub-rule (3) or (4) of Rule 26A.

3. Sub-rule (3) reads as follows:

"After considering the objections, if any, received and after giving an opportunity of being heard, the registering authority shall register the name of the headload worker in the Register of Headload Workers on being satisfied that the headload worker is eligible for registration and communicate the fact to the parties within two weeks of such registration. The Registering Authority shall also issue identity card to the registered headload worker (in Form XI). If the name is not registered, the Registering Authority shall communicate the fact to the applicant with reasons therefore."

4. While exercising this power, the registering authority shall either grant registration and issue identity cards or reject the application for registration. It is the admitted case of the petitioners that they have been issued identity cards by the registering authority. Issuance of identity cards is "to the registered headload worker". That means the applications for registration were allowed before such issuance of cards. Order allowing application for registration is an order passed under Sub-rule (3) of Rule 26A as extracted above. If the application is not allowed, the registering authority shall reject the application by an order. Thus exercising the power under Sub-rule (3), the registering authority can either allow the application for registration and issue identity card or reject the application for registration.

5. The provision regarding appeal as contained in Rule 26C reads:

"Any person aggrieved by an order of the Registering Authority under Sub-rule (3) or (4) of Rule 26A may file an appeal....."

Therefore appeal shall lie against an order allowing registration consequent on which identity cards are issued as has been done in the case of the petitioners by the registering authority. Therefore, the contention that the appeal filed by respondents 2 onwards was incompetent is not tenable.

6. It is further contended by the petitioners that in the Year 1995, there was a dispute regarding the work and petitioners 2 onwards along with respondents 3 onwards and others filed an Original Petition before this Court. This is the admitted position by the respondents also. Thus that Original Petition for police protection is sufficient evidence to prove that the petitioners were also headload workers.

7. The locus standi of the petitioners 2 onwards to work as headload workers is not questioned by respondents 3 onwards who filed the appeal which was allowed as per Ext. P4. But their contention was limited that the petitioners 2 onwards were being headload workers engaged only in respect of 50% of the unloading work attached to the Government Stores. Therefore, the judgment in the police protection case does not improve the case of the petitioners. The impugned order discloses that the appellate authority had considered various pieces of evidence available on record and adverted to the same. The basis for conclusion arrived in Ext. P4 is the appreciation of the evidence by the appellate authority. Another conclusion may also be probable. But that cannot be a reason for interference under Article 226 of the Constitution. The statutory appellate authority had rightly considered the evidence on records and had come to a reasonable conclusion which is possible in this case, that too based on the evidence that petitioners 2 onwards were engaged prior to the commencement of the proceedings for registration only for 50% of the unloading work attached to the Government stores.

8. In such circumstances, in Ext. P4 is not liable for interference under Article 226 of the Constitution of India.