

(2011) 08 KL CK 0056

In the High Court Of Kerala

Case No : Writ Petition (C) No. 30676 of 2007 (S)

Union of India (UOI) and Senior Divisional Mechanical Engineer

APPELLANT

Vs

M.K. Ramaswamy, Technician Grade-1 and Others

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2011) 4 KLJ 469

Hon'ble Judges : P.S. Gopinathan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : B. Jayasankar, SC, for the Appellant; Siby J. Monippally, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Gopinathan, J.—Respondents 1 and 2 in O.A. No. 579/2006 on the file of the Central Administrative Tribunal, Ernakulam Bench assails the order dated 8.6.2007, under Article 227 of the Constitution of India. The Respondents herein entered the service of the Petitioners as Substitute Khalasis. They were later granted temporary status and then promoted as Helpers. Later, they were promoted as skilled labourers and then as Mechanical Fitter Grade-II. Again promoted as Technician-I Diesel Mechanic and at present they are working as Technician Grade-I in Diesel Loco Shed, Erode. On 14.5.1997, the Petitioners issued Annexure-A1 notification calling application for appointment as volunteers to be deployed in Electro Loco Shed. Responding to Annexure-A1, the Respondents and others applied. The Petitioners appointed some of the applicants by pick and choose method. Annexure-A1 would show that the Respondents who were working on the rolls of Diesel Loco Shed, Erode are entitled to preference over other categories. Having failed to get appointment in the Electric Loco Shed they represented the matter before the Petitioners, but of no avail. Therefore, they preferred an application as O.A. No. 220/1999 before

the Tribunal below. But, vide Annexure A2 order, they were not successful. Being aggrieved, they moved this Court by O.P. No. 8509/2001. This Court by judgment dated 3.4.2001 set aside Annexure-A2 order and directed the Petitioners to consider the claim raised by the Respondents and to pass appropriate order within three months. By Annexure-A4 order the claim was rejected on the ground that there was acute shortage of volunteers in the Diesel Shed. Being aggrieved, though late, the Respondents moved this Court with Contempt Case No. 1375/2005 with an allegation that Annexure-A4 order was not in compliance of Annexure-A3 judgment. By Annexure- A5, another Division Bench of this Court dismissed the Contempt Case without prejudice to the liberty to the Respondent to pursue the grievance in appropriate proceedings. Thereupon, the Respondent preferred O.A. No. 579/2006. The O.A. was allowed by Ext. P4 order dated 8.6.2007. Assailing Ext. P4 order, this Writ Petition was filed.

2. We have heard either side and perused the order impugned. It is not in dispute that the Respondents are belonging to the 1st category in Annexure-A1 notification to be deployed to the Electric Loco Shed at Erode. It is not in dispute that there were a number of candidates and many of them were already deployed. It is also not in dispute that some of the juniors to the Respondents were also deployed ignoring the seniors. The learned standing counsel for the Petitioner could not deny the allegation that without scientific filtration process deployment was made. The reasons stated for not giving appointment to the Respondents is that there arose acute shortage in the Diesel Shed. It is only a lame excuse. In the event there were more claimants than the permissible number, what ought have been done was to have a fair selection process. But without any sort of selection process, some of the claimants were arbitrarily selected and deployed. That led the Respondents to move the Tribunal. There is total lack of transparency and fairness tantamounting to denial of justice. Lack of transparency and fairness in selection process are good reasons for judicial interference. The Tribunal below also arrived at a finding that there was No. justifying reason for denying deployment to the Respondents. Whereas the Petitioners, without any norms and ignoring the seniority of the Respondents, deployed persons who are junior to the Respondents. The Tribunal below was perfectly justified in directing the Petitioners to deploy the Respondents with consequential benefits. We find No. error, perversity or illegality in the order impugned so as to rectify either under Article 226 or Article 227 of the Constitution of India. The Writ Petition is devoid of merit. Accordingly, it is dismissed.