

(1966) 10 KL CK 0004
In the High Court Of Kerala

Varghese (P.C.)

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 27-10-1966

Acts Referred:

Citation : (1968) 1 LLJ 56

Hon'ble Judges : P. Govindan Nair, J

Bench : Single Bench

Judgement

P. Govindan Nair, J.—The petitioner has approached this Court a second time in regard to his claim that he is entitled to the pay-scales applicable to the grade to which he had been equated with effect from 1 November 1966 consequent on the reorganization of States. The petitioner came from the Madras State and on 31 October 1956 he was holding the post of a District Panchayat Officer. This post, it is asserted by the petitioner, was interchangeable with the post held by the second-grade Municipal Commissioners in the Madras State. In fact he has asserted that he had functioned as a Municipal Commissioner in the Fort Cochin area. By Ex. P. 14 order the District Panchayat Officers of the Madras State as well as the second-grade Municipal Commissioners from the Madras State were equated with the Municipal Commissioners of the Travancore-Cochin who were in the third grade of Rs. 200-300, Representations were made by various persons against this equation and Exs. P. 2 and P. 3 orders produced along with this writ application show that the Central Government directed that the District Panchayat Officers of Madras Should not be equated with the Municipal Commissioners in the Travancore-Cochin area to become Municipal Commissioners in the Kerala State. It was further directed that the District Panchayat Officers must be equated only with the Assistant Directors-cum-Personal Assistants to the Director of Panchayats. It may be mentioned here that at that time there was no separate Panchayat Department and the Municipal commissioners as well as the Panchayat Officers fell under what is called Local Bodies Department.

2. There was a claim that the revised pay-scales which were introduced in the Kerala State with effect from 1 November 1956 must be given to the officers who were allotted to the Kerala State from Madras State. This has been dealt with by the Central Government and they gave a direction by Ex. P. 2 regarding this matter. That direction is in these terms:

Further, the revised pay-scales would be allowed to the ex-Malabar officer also with effect from 1 November 1956.

3. The State Government in implementing this direction passed an order which is Ex. p. 4 and gave the benefit of the revised pay-scales to the Municipal Commissioners. This is seen from Para 2 of Ex. P. 4;

The Government of India have also, on the advice of the Central Committee, directed that the ex Malabar officers should also be allowed the revised pay-scales in the department with effect from 1 November 1956. The Government accept the recommendation and direct that the ex-Malabar Municipal Commissioners and the ex Travancore-Cochin Municipal Commissioners be allowed the revised scales of pay sanctioned to ex-Travancore-Cochin officers in G.P.L. 5-25431/55/DD, dated 23 November 1956, with effect from 1 November 1956 itself on the basis of the revised equation or posts and on the basis of the regrouping of posts ordered in the last paragraph of G.O. Ma, 1018, Public (Int. Spl.), dated 30 November 1959.

4. Why the revised pay-scales were made applicable only to the ex-Malabar Municipal Commissioners and the ex-Tavancore-Cochin Municipal Commissioners is not stated in Ex. P. 4. The petitioner approached this Court by a writ application, Original Petition No. 2163 of 1963, and my learned brother Justice Sri K.K. Mathew observed as follows:

The order of the Government of India referred to in Ex. P. 4 has not been placed before me and the learned Advocate-General also was not able to tell me the exact content of that order. In Original Petition No. 3109 of 1961 this Court has held that ex-Municipal Commissioners of the Malabar area are entitled to scale of pay in the equated post with effect from 1 November 1956. As it is not dear from the records available here why the benefit of the scale of pay in the equated post should be confined to ex Municipal Commissioners of the Malabar and the Travancore-Cochin area, I would direct the Government to consider the question afresh and pass fresh orders after taking into consideration all the relevant circumstances including the judgment in Original Petition No. 3209 of 1961. The petitioner's submission that there is no reason for making a distinction between himself and the petitioner in Original Petition No. 3309 of 1961, in the matter of granting the scale of pay in the equal post with effect from 1 November 1956 deserves serious consideration.

5. I must also state the fact that the petitioner though he was the District Pachayat Officer and became an Assistant Director-cum-Personal Assistant to the Director of Panchayats was in the same scale of pay while he was in Madras as

that applicable to the second-grade Municipal Commissioners and in the Kerala State too while functioning as an Assistant Director-cum-Personal Assistant to the Director of Panchayats, enjoyed the benefit of the pay-scales applicable to the second-grade Municipal Commissioners in Kerala State. In fact the equated post also carried the same scale of pay.

6. After this Court gave the direction in Original Petition No. 2363 of 1963 an order has been passed by the State Government, Ex. P. 13, which reads as follows:

The petitioner, P. O. Varghese, is informed that Government have considered afresh his request for fixation and arrears of pay in the scale of Rs. 250-400 with effect from 1 November 1956 in all its aspects in the light of the direction of the High Court of Kerala in the judgment delivered in Original Petition No. 2383 of 1963, High Court. They find that his request is inadmissible and that there is, therefore no necessity to revise the orders already passed by them in the matter. The petition cited is therefore rejected.

7. I am not able to glean anything from this order which can be assigned the status of reason for denying the claim put forward by the petitioner.

8. The only order that has to be considered in deciding the question whether any discrimination can be made between the petitioner and the others who were equated along with the petitioner and who functioned under the Local Bodies Department in the Madras State is the order Ex P 2. An elaborate attempt has been made in the counter-affidavit that has been filed on behalf of the State which has been amply and ably supported by counsel appealing on behalf of the State to make out a distinction between the petitioner and the others who have been equated by the same set of orders. I am however not convinced that any intelligible difference exists. I need not go so far, for even without applying the rule of equality the petitioner is entitled to succeed. The State government is bound to obey the direction of the Central Government in the matter of equation of posts. The only question is therefore what is the direction given by the Central Government. This is clear from Ex. P. 4:

On the fundamental principles of integration, however, it will not appear to be justified to make any distinction between the ex-Malabar and ex-Travancore-Cochin officers in respect, of pay-scales attached to the grade in which they are absorbed in Kerala. The Malabar officers, may, therefore, be allowed the Kerala pay-scales with effect from 1 November 1956 to their respective grades if they opt for the same.

9. The fact that the above observations occurred in that paragraph which was given the sub-title of "Sri K. Ramuni Nair" (sic) does not appear to me to be either relevant nor does it appear to me to touch the question as to the amplitude of the observation of this Court or its application. The ex-Mallabar officers must certainly relate to those whose scales of pay were settled by the same set of rules and the question of whose services has been dealt with by the

Central Government by order Ex. R. 2 The petitioner is an ex-Malabar officer. What is stated in the communication Ex. R. 2 as well as in the annexure to Ex. R.2 is not about Municipal Commissioners but about ex-Malabar officers, treated as a category as distinct from the Travancore-Cochin officers.

10. In the light of the above there is no Justifiable reason for excluding the District Panchayat Officers who came along with the Municipal Commissioners from the same department in the Madras State, the Local Bodies Department; and for treating them in a different fashion from the Municipal Commissioners.

11. I, therefore, quash Ex. P. 13 order and direct that the petitioner will be given the benefit of the revised pay-scales with effect from 1 November 1953. The arrears due to him should be paid and his pension will be denied in accordance with the pay-scales fixed as directed above.

12. This writ application is ordered on the above terms. There will be no order regarding costs.