
(2016) 06 KL CK 0102
In the High Court Of Kerala
Case No : WP(C).No. 18054 of 2016 (F)

Yohannan. K

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 30-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 KLT 26

Hon'ble Judges : Mr. Shaji P. Chaly, J.

Bench : Single Bench

Advocate : Sri. D. Kishore, Smt. Mini Gopinath, Smt. Meera Gopinath and Sri. R. Muraleekrishnan (Malakkara), Advocates, for the Petitioner; Government Pleader, Sri. T.R. Rajesh, for the Respondent No. 1; Sri. M. Gopikrishnan Nambiar, SC, for the Respondent No. 2-4

Final Decision : Dismissed

Judgement

Shaji P. Chaly, J.—This writ petition is filed by the petitioner seeking to quash Ext.P8 order passed by the third respondent, whereby regularisation of service pursuant to Ext.P1 notification dated 22.12.2011 was declined to the petitioner.

2. Brief facts are thus:-

Petitioner has worked as an empanelled driver under respondents 2 to 4 and his service commenced from 04.04.1996. Even though, all his fellow workers are regularised in service as they had completed ten years, petitioner was left out. According to the petitioner, petitioner has completed more than sixteen years of service and is eligible for regularisation. The petitioner has not been engaged after July 2012. It is in this background petitioner has submitted representation before the second respondent seeking to regularise in service which was declined as per Ext.P8 order. It is thus challenging Ext.P8, petitioner has filed this writ petition.

3. Heard learned counsel for the petitioner and learned standing counsel for the Corporation, perused pleadings and documents on record. The sole question to be considered is whether any interference is warranted in Ext.P8 order passed by the second respondent dated 11.04.2016. Learned counsel for the petitioner reiterated the contentions raised in the writ petitioner. That apart, it is contended that even though, petitioner was out of service for a short period as provided under Ext.P1 notification, petitioner has completed 10 years of service entitled to get benefit of the said notification. Therefore according to the petitioner, Ext.P8 order passed by the second respondent suffers from the vice of arbitrariness and illegality.

4. Per contra, learned standing counsel for the Corporation submitted that even going by Ext.P1 notification, petitioner is not entitled to get regularisation for the reason that as per Clause (5) in order to enable an employee to secure regularisation he should be in service as on the date of Ext.P1 notification. That apart, it is contended that since the petitioner absented from duty without leave or authorisation, petitioner was removed from the list of empanelled drivers on 08.07.2009. Subsequently, on 02.06.2012 after imposing a fine of Rs. 5000/- (Rupees five thousand only) he was re-inducted on 02.06.2012. However, it is contended that since the petitioner was not in service on the date of notification, petitioner is not entitled to get regularisation.

5. Having evaluated the submissions made across the bar and perusal of pleadings and documents, I am satisfied that the second respondent has considered the entire contentions raised by the petitioner and passed Ext.P8 order. It is categorically stated in Ext.P8 that the case of the petitioner could not be considered in view of the particular Clause contained under Ext.P1 that an employee in order to get benefit of the notification should be in service as on the date of the notification. Admittedly petitioner was not in service, when Ext.P1 notification was issued, since he was removed from panel on 08.07.2009 pursuant to his unauthorised absence, till 2-6-2012, when he was re-inducted in the panel. Therefore, I do not find any illegality, irrationality or other legal infirmities warranting interference of this court in Ext.P8 order, invoking the power of judicial view conferred under Article 226 of the Constitution of India.

6. Up shot of the above discussion is that, petitioner is not entitled to secure any relief and therefore the writ petition is dismissed.