

Salimkumar@ Ani Vs. the District Superintendent of Police

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Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Salimkumar@ Ani

Respondent : The District Superintendent of Police

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR FRIDAY, THE 27TH DAY OF SEPTEMBER 2013 5TH ASWINA, 1935 WP(C).No. 16069 of 2013 (R) ----- PETITIONER: ----- BEENA C.K., AGED 41 YEARS D/O LATE C.A KUNJAN, CHAKKALATHARA HOUSE EDAVANAKKADE P.O, ERNAKULAM 68250 BY ADV. SRI.M.K.CHANDRA MOHANDAS RESPONDENT: ----- THE REGISTRAR (GENERAL) HIGH COURT OF KERALA, ERNAKULAM 68203 BY ADV. SRI.K.R.B.KAIMAL(SR), SC, HIGH COURT OF KERALA BY ADV. SMT.P.V.ASHA THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-09-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 16069 of 2013 (R) ----- APPENDIX PETITIONER'S EXHIBITS ----- EXHIBIT P1 A TRUE COPY OF THE INFORMATION DATED 14-08-2012 FROM THE PUBLIC INFORMATION OFFICER, HIGH COURT OF KERALA, UNDER RIGHT TO INFORMATION ACT EXHIBIT P2 A TRUE COPY OF THE APPLICATION DATED 11-02-2013 U/S.6 OF THE RTI ACT SUBMITTED BY T.K.

SASI EXHIBIT P2(A) A TRUE COPY OF THE LETTER DATED 01/03-2013 FROM THE PUBLIC INFORMATION OFFICER, HIGH COURT OF KERALA, UNDER RIGHT TO INFORMATION ACT RESPONDENT(S)' EXHIBITS: NIL
----- // TRUE COPY // TKS P.S. TO JUDGE C.T.RAVIKUMAR, J.

----- W.P.(C)No.16069 of 2013 ----- Dated 27th September, 2013

JUDGMENT

High Court of Kerala as per letter No.A3-40640/09 dated 21.12.2009 made a requisition to the District Employment Exchange for sponsoring candidates for appointment against seven vacancies in the category of Peon. Those vacancies were available as on 1.4.2010. Pursuant to the said requisition the District Employment Officer forwarded a list of 497 candidates including the petitioner herein. Out of the 497 candidates 124 candidates were found over aged and therefore ineligible to be considered for appointment as against the posts. The remaining 373 candidates including the petitioner were interviewed. A ranked list was published on 29.12.2010 along with a waiting list. The petitioner was ranked 3 in the waiting list. Admittedly, the two year period elapsed on 28.12.2012. However, going by the statement filed on behalf of the respondent no fresh list was published subsequent to the list dated 29.12.2010 and therefore, the said ranked list continues to be in force.

2. This writ petition has been filed seeking issuance of a writ of mandamus commanding the respondent to appoint the petitioner against any of the existing vacancies or to create a super numerary WP(C).No.16069/2013 2 post of peon for effecting appointment of the petitioner. The further prayer is for a declaration that the 10th and 11th posts from the existing ranked list were filled up overlooking the petitioner's turn. I do not propose to consider the said question as despite making such a specific allegation the petitioner has not chosen to implead those persons who were appointed against 10th and 11th turns. Various other grounds were also raised by the petitioner to substantiate her claims and contentions. It is the contention of the petitioner that despite the existence of the list drawn on

29.12.2010 and the waiting list, appointments were effected against certain vacancies from outside the list. According to the petitioner, such appointments were not made in accordance with law and if such vacancies were filled up from among the persons included in the list dated 29.12.2010 she would have obtained appointment. In the absence of specific details with respect to the manner in which such vacancies were filled up and in the absence of persons who were appointed as such against such vacancies in the array of parties and even in the absence of details as to when such appointments were effected I am of the considered view that the legality or otherwise of such appointments cannot be gone into in this writ petition based on vague averments. At the same time, certain statements in paragraph 3 WP(C).No.16069/2013 3 of the statement filed on behalf of the respondent assume relevance in the context of the contentions. It is stated therein that as per Clause 2 of Rule 7 of High Court Service Rules, 2007 a rank list prepared for appointment by direct recruitment to its service should remain in force for a period of two years from the date on which it is brought in force until the publication of a fresh list or till the expiry of three years, whichever is earlier. True that the two year period as regards the list in question had expired on 28.12.2012. However, it is specifically stated therein that no fresh list was prepared for the purpose of appointment to the post of Peon and therefore, the list drawn on 29.12.2010 still continues to be in force till the expiry of the permissible period in view of the aforesaid rule. If the rank list is in force necessarily the waiting list can also be operated subject to the provisions of law. Ext.P2 would reveal that there are vacancies in the post of Peon. It is not discernible from Ext.P2 as to whether all such vacancies could be filled up from the list in question as admittedly, other permissible methods of recruitment are also being followed, in accordance with law, to fill up the vacancies in the post of Peon. What exactly is the number of vacancies which could be filled up by candidates included in the list in question is not discernible from the rival pleadings. In the said circumstances, there will be a WP(C).No.16069/2013 4 direction to the respondent to ascertain the number of vacancies presently available in the category of Peon and also to ascertain the number of vacancies which could be filled up from the list in question. After ascertaining the same appointments shall be effected against the permissible number of vacancies falling under the direct recruitment quota which could be

filled up from the list in question which was drawn on 29.12.2010 in accordance with law. Such exercise including appointment shall be effected expeditiously, at any rate, on or before 28.12.2013. The writ petition is disposed of accordingly. Sd/-
C.T.RAVIKUMAR Judge TKS

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