

N.S. Prabhakaran Vs. State

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Court : Kerala

Decided On : Feb-17-1958

Reported in : AIR1960Ker82

Judge : Varadaraja Iyengar, J.

Acts : [Constitution of India](#) - Articles 226, 310 and 311

Appeal No. : O.P. No. 192 of 1958

Appellant : N.S. Prabhakaran

Respondent : State

Advocate for Def. : Government Pleader

Advocate for Pet/Ap. : P. Govinda Menon (C) and; P. Gopalankutty Menon, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Varadaraja Iyengar, J.

1. This is a petition under Article 228 of the Constitution. The petitioner is a servant of the Respondent Statn of Kerala. His complaint is that the service conditions

which governed him while he was attached to the State of Madras before he came over to the service of the Respondent State as a result of the formation of Kerala have been altered to his detriment by various orders of the Respondent State. Reliance is placed by the petitioner on Section 115(7) of the States Reorganisation Act which prohibits such alteration except with the previous consent of the Government of India. The State in counter affidavit has repudiated that petitioner has any cause of action for complaint and contended that the petition is not maintainable under the writ jurisdiction of this court.

2. Now there can be no doubt and it has been so held in numerous decisions that complaints as to service conditions by servants of the Central or State Governments are not amenable to judicial review under Article 226 of the Constitution. Except in respect of matters governed by Article 311, all the jural relations between the State and the subject are governed by Article 310. And if under Article 310 the servant's service is at the pleasure of the State, the servant cannot have any legal complaint on the score of mere change in the service conditions. It follows that the petition has necessarily to fail in limine. It is unnecessary in the circumstances to consider whether the subsequent approval obtained by the State in regard to certain of the variations in the service conditions could be enough to sustain the variations, that is, notwithstanding that the approval is not a precedent one in terms of the powers to Section 115(7) of the States Reorganisation Act.

3. The O. P. herein is therefore dismissed. But there will be no order for costs.