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Hari Kumar M. Vs. the Kerala Public Service Commission,

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Court : Kerala

Decided On : Apr-09-2010

Judge : S. Siri Jagan, J.

Appeal No. : W.P. (C). No. 12718 of 2010 (L)

Appellant : Hari Kumar M.

Respondent : The Kerala Public Service Commission,; the District Officer And; the District Education Officer

Advocate for Def. : No Appearance

Advocate for Pet/Ap. : V.K. Sunil, Adv.

Disposition : Petition dismissed

Judgement :

S. Siri Jagan, J.

1. Certain percentage of vacancies of UPSA in the General Education Department of the Government of Kerala are reserved to be filled up from among Clerks/Typists/Attenders/Peons of the Education Department. The Public Service Commission invited applications from ministerial staff from the Education Department for selection to the vacancies of UPSA in the reserved category. The petitioner applied. The petitioner's application was rejected on the ground that he

does not possess the required number of years of service in the Education Department. The petitioner challenges the rejection of his application as well as the condition in Ext. P6 notification inviting applications of 5 years' service as Clerk/Typist/Attender/Peon prescribed as a qualification for appointment in the Education Department as on the date of application. The petitioner contends that the petitioner was originally recruited pursuant to a notification inviting applications for appointment to various departments and the petitioner was alloted to the Health Department originally. The petitioner had no choice regarding the Department and he later got inter-departmental transfer to the Education Department. The petitioner's contention is that in such circumstances, there is no logic in confining the requirement of 5 years of service in the Education Department alone. He submits that his service in the Health Department should also be reckoned for the purpose of reckoning 5 years' service mentioned in Ext. P6 as an essential qualification for consideration for selection to the post.

2. The learned Government Pleader and the standing counsel for the Public Service Commission oppose the contentions. He submits that as per the Rules applicable, the 5 years' service should be in the Education Department itself, which prescription is with a definite purpose. According to him, only those persons who have put in experience in Education Department, can be considered for selection to the post of UPSA. Admittedly, the petitioner does not have 5 years service in the Education Department and therefore he is not eligible to be considered for selection, is the contention raised by both the learned Government Pleader as well as the learned counsel for the Public Service Commission.

3. I have considered the rival contentions in detail.

4. I do not find any merit in the contentions of the petitioner. Admittedly, the Rules prescribe 5 years service in the Education Department itself. The object is self evident. Only those persons who have sufficient experience in the Education Department itself are to be considered for selection. There is nothing arbitrary or unreasonable in that prescription. Further, on inter-departmental transfer, the petitioner joined the Education Department as the junior-most in his category. If he is given weightage for the service in Health Department, he would steal an unjust

march over persons senior to him in the Education Department. Admittedly, the petitioner does not have 5 years' service in the Education Department. Therefore, there is no merit in this writ petition. Accordingly, the same is dismissed.

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