

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE SATHISH NINAN

Monday, the 22nd day of June 2020/1st Ashadha, 1942

WP(C)No.34618/2019(B)

PETITIONER

SHANIL N.B.,
NEYYATH HOUSE, POIKKATUSSERY, CHENGAMANAD P.O, ALUVA, ERNAKULAM 683
578.

RESPONDENTS

1. KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
TRANSPORT BHAVAN, EAST FORT, THIRUVANANTHAPURAM 695 023.
2. THE CHAIRMAN AND MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION, TRANSPORT BHAVAN, EAST FORT,
THIRUVANANTHAPURAM 695 023.
3. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, P.S.C OFFICE, PATTOM, THIRUVANANTHAPURAM
695 004.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction to the 2nd respondent not to engage any person other than the persons advised by P.S.C as drivers in K.S.R.T.C pending disposal of the Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 05-03-2020 and upon hearing the arguments of SRI.K.P.SATHEESAN (SENIOR ADVOCATE), along with M/S.K.SUDHINKUMAR, P.MOHANDAS (ERNAKULAM), SABU PULLAN, S.K.ADHITHYAN & S.VIBHEESHANAN, Advocates for the petitioner and of SRI.T.P SAJAN, STANDING COUNSEL for R1 to R3, the court passed the following:

P.T.0

SATHISH NINAN, J.

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W.P.(C) Nos.34319 & 34618 of 2019

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Dated this the 22nd day of June, 2020

ORDER

The immediate grievance of the petitioners is that, though a Division Bench of this Court as per judgment dated 08.04.2019 in W.A. No.1011/2019 and connected cases directed the services of the empanelled drivers who were overstaying beyond 180 days in violation of Rule 9(2) of Part II of KS&SSR to be terminated, they are being re-employed by the Corporation.

2. The learned Standing Counsel for the Corporation submits that, engagement of drivers on daily wages is frequently necessitated due to leave vacancies which impels the Corporation to engage drivers on daily wages. He asserts that the services of the empanelled drivers were terminated and that they are not being re-engaged.

3. Be that as it may, what is the interim arrangement to be made pending the disposal of the writ petitions needs to be dealt with.

4. The learned Standing Counsel for the Corporation submits that the Corporation is in penury and is unable to meet its expenditure; in the present scenario the Corporation does not want to burden itself with any further financial liability either by making regular appointments or appointments under Rule 9(a)(i) of Part II of KS&SSR. They will engage drivers on daily wages in terms of Rule 9A of KS&SSR, it is submitted. The petitioners are also amenable to adoption of such a course pending final disposal of the writ petitions.

5. As per order dated 30.06.2015 in W.P.(C) No.2460/2015, the Corporation had reported 2455 vacancies of reserved drivers to the Public Service Commission. It was further directed that the PSC need not advise the candidates without getting orders from the court. There has been no further directions. The petitioners are enlisted in the rank list which came into force on 23.08.2012 and expired on 31.12.2016. As noticed, pursuant to the directions by this Court 2455 vacancies were

reported during the currency of the said rank list. Since as of now the Corporation has chosen not to effect regular appointments and that the enlisted candidates like the petitioners are waiting in the queue awaiting appointment, I consider it only just and proper that daily wages appointments in terms of Rule 9A as referred to in the preceding paragraph, as is proposed to be done by the Corporation, be made from the 2455 candidates enlisted in the aforementioned rank list. I do notice that a similar course was adopted earlier also by this Court in O.P. 37878/2001. Neither side have any objection to the above.

6. Accordingly, the following directions are issued:-

(i) The Public Service Commission shall forward the details of the 2455 persons from the rank list which came into force on 23.08.2012 and expired on 31.12.2016. The list shall be prepared as if it is prepared as an advice list applying communal rotation and seniority.

(ii) The list as directed in Clause (1) above shall be forwarded to the Corporation within a period of two weeks from today.

(iii) The Corporation shall call upon the enlisted persons to exercise their option regarding the stations/units to which they would like to be attached. Such communication shall be effected by the Corporation by registered post.

(iv) On the basis of options so provided, they shall be employed by the Corporation strictly adhering to Rule 9A of Part II of the KS&SSR.

(v) Appointments as above shall not confer the appointees any special rights or privileges, nor shall the failure to take up such appointments affect the rights of candidates in the PSC's rank list for their regular appointments, if they are otherwise entitled.

Sd/-

SATHISH NINAN, JUDGE

26/6/20

kns/-

True copy


Assistant Registrar

26/6