

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 1503 of 2015 (K)

PETITIONER(S):

**RAPHELLO HAFIZ , AGED 27 YEARS
S/O.MOOSAKUTTY, "NEETHI NILAYAM", TRIKADIYOOR
TIRUR, MALAPPURAM DISTRICT-676101.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT(S):

- 1. THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF RAILWAYS
RAILWAY BHAVAN, NEW DELHI.**
- 2. THE GENERAL MANAGER
SOUTHERN RAILWAY, CHENNAI.**
- 3. THE STATION MASTER
KOZHIKODE RAILWAY STATION, KOZHIKODE,
KOZHIKODE-12.**
- 4. THE PRINCIPAL
GOVERNMENT LAW COLLEGE, KOZHIKODE.**

**R1-R3 BY ADV. SRI.C.S.DIAS,SC,
R4 BY GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE IDENTITY CARD ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.**
- EXHIBIT-P2: TRUE COPY OF THE CERTIFICATE ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.**
- EXHIBIT-P3: TRUE EXTRACT OF THE CONDITIONS PRINTED ON THE REVERSE SIDE OF THE TICKET.**
- EXHIBIT-P4: TRUE COPY OF THE APPLICATION MADE BY 3 OTHER STUDENTS FOR SEASON TICKET.**

RESPONDENT(S)' EXHIBITS

- EXHIBIT R1(1): TRUE COPY OF THE RELEVANT EXTRACT FROM THE INDIAN RAILWAY CONFERENCE ASSOCIATION COACHING TARIFF NO.25, PART-I (VOLUME II).**

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 1503 of 2015

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Dated, this the 17th day of March, 2015

JUDGMENT

This is a case filed by a person aged 27 years, who is pursuing IInd semester LLB Course in the Kozhikkode Law College. The grievance of the petitioner is that the claim for granting students' concession has been declined by the Railways, with reference to the age, having crossed the bar of 25 years. According to the petitioner, there is no rhyme or reason to have such a stipulation or rider with reference to the age, which quite adversely affects the rights and interests of the petitioner. Hence the challenge.

2. The respondents Railways have filed a counter affidavit, seeking to sustain their stand.

3. Heard both the sides in detail.

4. During the course of hearing, the learned counsel for the petitioner points out that the right of the petitioner to pursue studies virtually flows from Part III of the Constitution of India. It is stated though the right of education has not been separately mentioned as a fundamental right, the same is to be connected with Article 21A of the Constitution of India. The learned counsel further submits that

judgment passed by this Court in **P. Cherriyakoya Vs. Union of India [AIR 1994 Kerala 27]** (paragraph 4) is in support of the above situation.

5. Reliance is also sought to be placed on the decision rendered by this Court in **K. A. Babu & Others Vs. State of Kerala and Ors [1987 (1) KLT 730]** in respect of the age bar. The issue come up for consideration in the said decision was with regard to the correctness and sustainability of fixation of higher age for getting admission to the LLB course. After an elaborate discussion and referring to the relevant provisions of law, it was held that fixation of higher age limit to a particular course is hit by Article 14 and it was accordingly, that interference was made. The said decision does not come to the rescue of the petitioner. The issue involved herein is not with regard to any such vested right, but with regard to a case of 'concession'. The concession is being extended by the respondents, based on certain norms, and copy of the relevant norms has been produced as Ext. R1(1). The tariff payable particularly in respect of the students and the extent of concession available both to the General category as well as to the Scheduled Caste/Scheduled Tribe, have been dealt with separately

in the Indian Railway Conference Association Coaching Tariff No.25. It is also relevant to note that fixation of tariff/concession is a matter of policy coming under the power and prerogative of the Railways. That apart, the stipulation/norm under Ext. R1(1) has not been sought to be challenged by the petitioner.

6. The learned standing counsel for the Railways sought to place reliance on the decision rendered by the Apex Court in **Union of India Vs. J.D. Suryavanshi [AIR 2011 SC 3605]** as to the scope of judicial review in respect of policy matters of the Railways. Paragraph 10 of the said verdict is relevant, which reads as follows :

“10. How many coaches should be attached, what types of coaches are to be attached, on which lines what trains should run, what should be their timings and frequency, are all matters to be decided by the Railway administration using technical inputs, depending upon financial, administrative, social and other considerations. This Court has repeatedly held that courts should not interfere in matters of policy or in the day-to-day functioning of any departments of Governments or statutory bodies. Even within the executive, the need for separation of roles has been voiced. We may usefully

refer to the following observation in the Rakesh Mohan Committee Report (1998) made in a different context:

"With regard to institutional separation of roles, into policy, regulatory and management functions, these roles are currently blurred, which causes confusion about the underlying vision and mission of Indian Railway. The institutional separation of roles will mean that policy makers are limited to setting policy; regulators fix competition rules in general and pricing in particular; management manages and is measured against clear performance indicators."

7. After hearing both the sides, this Court finds that the idea and understanding of the petitioner as to the rights and liberties to claim concession, even beyond the stipulated age provided in Ext. R1(1) norm, is thoroughly wrong and misconceived, which cannot be claimed as a matter of right, disregarding the norms. In so far as the norm is not sought to be challenged by the petitioner, the writ petition does not warrant any interference. It stands dismissed accordingly.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**