

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 8232 of 2011 (D)

PETITIONER :

**M.K.SUKUMARAN, AGED 58 YEARS
S/O.KRISHNAN NAIR, TRAIN HALT AGENT,
KORATTI ANGADI R.S. & PO
SOUTHERN RAILWAY/TRIVANDRUM DIVISION,
TRICHUR DISTRICT, RESIDING AT MATTATHIL HOUSE,
MAMBRA P.O., KORATTI -680 308
TRICHUR DISTRICT.**

**BY ADVS.SRI.T.C.GOVINDASWAMY
SRI.G.SHYAM RAJ
SMT.KALA T. GOPI**

RESPONDENT(S) :

- 1. UNION OF INDIA
REPRESENTED BY THE GENERAL MANAGER,
SOUTHERN RAILWAY HEAD QUARTERS OFFICE
PARK TOWN P.O., CHENNAI - 600 003.**
- 2. THE CHIEF COMMERCIAL MANAGER
SOUTHERN RAILWAY, HEAD QUARTERS OFFICE,
PARK TOWN P.O., CHENNAI - 600 003.**
- 3. THE SR. DIVISIONAL COMMERCIAL MANAGER
SOUTHERN RAILWAY, TRIVANDRUM DIVISION
TRIVANDRUM - 695 014.**
- 4. SMT. SHYLA K.V.,
W/O. ASOKAN, CHOOLACKAL HOUSE, NEAR RAILWAY STATION
CHALAKUDY P.O., TRICHUR DISTRICT - 680 307.**

R1 TO R3 BY ADV. SRI. C.S. DIAS, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF ORDER BEARING NO. V/C-210/FLAG STATIONS/2 DATED 19.6.1982, ISSUED FROM THE OFFICE OF THE DIVISIONAL RAILWAY MANAGER, SOUTHERN RAILWAY.
- EXT.P2 COPY OF AGREEMENT DATED 31ST MARCH 1983 ENTERED WITH THE RAILWAY ADMINISTRATION.
- EXT.P3 COPY OF NEW AGREEMENT DATED 27 MAY 1991 ENTERED INTO WITH THE RAILWAY ADMINISTRATION.
- EXT.P4 COPY OF THE LETTER BEARING NO.V/C.210/KRAN/TH DATED 15.10.1996, ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXT.P5 COPY OF ORDER BEARING NO.V/C-210/TH/KRAN/2001 DATED 30.3.2001 ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXT.P6 COPY OF ORDER BEARING NO.V/C-210/TH/P/VOL.III/04 DATED 12.5.2004 ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXT.P7 COPY OF NOTIFICATION BEARING NO. V/C.210/TH/P/VOL.IV/2010 DATED 23.4.2010, ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXT.P8 COPY OF APPLICATION SUBMITTED ON 27.5.2010 BY THE APPLICANT WITH REFERENCE TO P7 NOTIFICATION.
- EXT.P9 COPY OF LETTER BEARING NO. V/C.210/KRAN/TH/VOL.II DATED 22.2.2011 ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXT.P10 COPY OF PARA 275 OF THE INDIAN RAILWAY COMMERCIAL MANUAL VOL.I.

(Contd...)

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RESPONDENT'S EXHIBITS :

EXT.R3(1) : COPY OF COMMERCIAL CIRCULAR NO. 26 OF 2005 DATED 24.6.2005
PROMULGATED BY THE MINISTRY OF RAILWAYS, GOVERNMENT OF
INDIA, NEW DELHI.

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 5th day of June, 2015

J U D G M E N T

The petitioner admittedly had been a "Train Halt Contractor" in the Indian Railways from 1982 onwards having been continued on periodical contracts till 23.04.2010, when Ext.P7 notification was published. Applications from persons who have passed 10th standard were invited for being granted "Train Halt Contracts", by Ext.P7; aggrieved by which, the petitioner was before this Court.

2. The petitioner admittedly is not a matriculate and is aggrieved with the provision in Ext.P7 notification by which only matriculates were allowed to apply under it. On a specific query put by the Court, the learned Standing Counsel for the Railways explains the scheme of appointment of Halt contractors

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as sellers of tickets, in small stations, having halt for only passenger trains and where the establishment of a booking office with staff thereon would be a wasteful expenditure. The petitioner's contention was that, there was absolutely no authority on the Railways to prescribe such a qualification, which is refuted by the Railways on the basis of Ext.R3(1) issued by the Government of India in the nature of guidelines to be followed by the Zonal Railways in connection with opening of Halt stations. The Government of India has prescribed a qualification of "10th standard passed" for new contractors, which according to the Railways, authorises them to make such prescription in the notification.

3. It is trite that, this Court would not interfere with the prescriptions made by a competent authority with respect to minimum requirements for appointment or for awarding contracts in that establishment. Ext.R3(1) also is the prescription

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of the minimum educational qualification which cannot be interfered with by this Court.

4. In the present case, it cannot be disputed that the Railways has the authority to prescribe the minimum standards and the guidelines issued by the Government of India also prescribes a minimum requirements of 10th standard. Pertinent however would be the words used in the guidelines being the prescription for "new contractors". Hence, a person, who had been continuing as a contractor for long, specifically as in the case of the petitioner from 19.06.1982, the prescription of such a qualification may not be very relevant since, he would be well versed with the work and there has been no complaints with respect to his work for all these years. Admittedly, the petitioner had been continuing as a Train Halt Contractor for very many years right from 1982 and many a time without a fresh notification and he was permitted to continue on the basis of the

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various extensions granted as is evident from Exts.P3 and P4. When prescribing such minimum requirements, the guidelines does not indicate any change in the nature of the work of the Halt contractors.

5. Considering the entire circumstances, this Court is inclined to hold that the petitioner who had been continuing long back, would be entitled to apply under the notification de hors the minimum requirements specified in the notification. It cannot at all be said that the petitioner would be allowed to continue unconditionally, since the guidelines prescribes such contracts to be awarded for every year and the Railways would be entitled to select the best suitable person out of the applications and that would also further the public element so as to ensure transparency in the appointments of contractors.

6. In such circumstance, there can be no order granted for continuance of the petitioner unconditionally, but,

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however the petitioner would be entitled to apply under a notification similar to that issued at Ext.P7. The petitioner would have to compete with the others but, however his lack of qualification would not stand against the petitioner.

The writ petition is disposed of with the above observations.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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P.A to Judge.