

CASE NO.:
Appeal (civil) 1833 of 2005

PETITIONER:
Maya Mathew

RESPONDENT:
State of Kerala & Ors.

DATE OF JUDGMENT: 18/02/2010

BENCH:
R.V. Raveendran & H.L. Dattu

JUDGMENT:
JUDGMENT

2010 (3) SCR 16

The Order of the Court was delivered by

O R D E R

R.V. Raveendran, J. 1. The appellant is a Pharmacist (Homeopathy) in the Homeopathy Department of State of Kerala. The Kerala State Homeopathy Services are governed by the 'Special Rules for the Kerala State Homeopathy Services, 1989 ('Special Rules', for short). All sub-ordinate services in the State of Kerala including the State Homeopathy Services are also governed by the Kerala State and Sub-ordinate Services Rules, 1958 ('General Rules' for short).

2. Rule 3 of the Special Rules provides that the method of appointment to different categories of posts shall be in the manner specified in the Table given under the said rule. Entry No.5 in the said Table relating to Medical Officers (inserted by G.O. dated 27.5.1999, with effect from 12.4.1999) is extracted below:

Category of Post	Method of appointment
------------------	-----------------------

Medical Officer 1.	By direct recruitment
--------------------	-----------------------

2.	By transfer from the category of Nurse (Homeopathy)
----	---

3.	By transfer from the category of Pharmacist (Homeopathy)
----	--

4.	By transfer from the category of Clerks (Homoeo Department)
----	---

Note: 1. A ratio of 5:1:1:1 shall be maintained in making appointments between direct recruitment, transfer from Nurses (Homeopathy), Pharmacist (Homeopathy) and Clerks in Homeopathy Department.

2. The appointment by transfer of Nurse (Homeopathy), Pharmacist (Homeopathy), Clerk (Homeopathy) will be done by a selection through the Kerala Public Service Commission from among the three categories. In the absence of candidates by transfer those vacancies in each category will be filled up by direct recruitment from open quota and the backlog for such categories will not be restored."
[emphasis supplied]

3. Rule 5 of the General Rules is a general rule relating to the manner of recruitment. The following was added as Note (3) to the said Rule 5 of the General Rules by the Kerala State Subordinate Services (Amendment) Rules, 1992 :