

P.K. Narayani And Ors. vs State Of Kerala And Ors. on 24 November, 1983

Equivalent citations: [1984(48)FLR121], 1983(2)SCALE898, 1984(SUPP)SCC212, AIR 1984 SUPREME COURT 534, 1984 LAB. I. C. 294, 1984 SCC (L&S) 640, (1984) 48 FACLR 121, (1984) KER LT 17, (1984) 1 LAB LN 70

Bench: Y.V. Chandrachud, M.P. Thakkar, Amarendra Nath Sen

ORDER

1. The petitioners have been serving as employees of the state of Kerala or of Public Sector Corporations in that State for the past few years. By these writ petitions they contend that they are 'workmen within the meaning of the Industrial Disputes Act and ask for a declaration that the proposed termination of their employment by the Government of Kerala or by the Corporations is unconstitutional.

2. We have heard learned Counsel for the petitioners and for the respondents at some length. We are of the opinion that the best solution, in the circumstances of the case, is to ask and allow the petitioners to appear for the next Public Service Commission examination.

3. Accordingly, we direct that the petitioners and all others who are similarly situated will be permitted to appear for the next examination which the State Public Service Commission may hold. The petitioners will be entitled to appear for that examination along with the other candidates who may be due to appear for the examination.

4. Many of the petitioners will be barred by age for appearing at the next examination of the Public Service Commission. At the time of the last examination, the Government of Kerala had relaxed the age restriction by directing that if the petitioners were not age-barred on the date on which they entered the service of the State or any of its Public Sector Corporations, the rule regarding age will be relaxed in their favour. We direct, that the petitioners and others similarly situated will be allowed to appear for the next examination by a similar relaxation of the age restriction, provided that they have been in continuous employment. Such relaxation will be limited to and available for the next examination only.

5. We hope that the State Public Service Commission will be able to hold the next examination as early as possible preferably within a period of three months from today. These writ petitions involve a human problem which has more than one facet. On one hand are the difficulties in which the petitioners find themselves as a result of the impending termination of their services. On the other are the exigencies of service which require that persons who have been selected by the Public Service Commission on merits must take charge of their posts. In order not to aggravate this problem, it is

necessary that the examination should be held by the Public Service Commission expeditiously.

6. The petitioners and all others who are similarly situated may be allowed to continue in service, provided that there are vacancies in which they can be allowed to continue to work.

7. We would like to make it clear that the order which we are passing to-day will not confer any right on the petitioners and the others who are similarly situated to continue in service, or of being selected by the Public Service Commission otherwise than in accordance with the relevant rules and regulations. We must also clarify that this order will not be construed as or operate as a stay of the appointment of candidates who have been already selected or who may hereafter be selected by the Public Service Commission.

8. With these observations, the writ petitions are dismissed.