

Ajith G. Das & Others Etc.

v.

The State of Kerala & Ors.

(Civil Appeal No(s). 14828 of 2024)

19 December 2024

[Vikram Nath* and Prasanna B. Varale, JJ.]

Issue for Consideration

Issue arose as regards the refusal of Kerala Public Service Commission to expand vacancies despite the directions of the tribunal.

Headnotes[†]

Service law – Recruitment – Expansion of rank lists – Kerala Public Service Commission-KPSC invited applications for the post of Junior Health Inspector for 14 districts of Kerala – Rank List published for the notified districts – Appellants sought directions to KPSC to expand the shortlist published for the post on account of overlapping candidates in multiple lists, and several vacancies remained unfilled – Tribunal directed the State Government to decide on the expansion of the rank lists – State Government in compliance with the directions expanded the rank lists and sent recommendation to KPSC for necessary action – KPSC rejected the Government's recommendation – Said rejection challenged by the appellants – Tribunal dismissed the same – High Court upheld the order passed by tribunal – Correctness:

Held: Primary role of the KPSC is to aid and facilitate the selection process – KPSC functions as an autonomous body within the framework laid down by the Constitution – However, its autonomy confined to the conduct of the selection process – Determination of the number of vacancies and the requisition for employees remain the prerogative of the State Government, which is the employer – Government is best positioned to assess its workforce requirements – KPSC's mandate is to conduct the selection process in a manner that aligns with the Government's requisition – Notification issued clearly indicated that vacancies to be filled included those that might arise in future considering

* Author

Ajith G. Das & Others Etc. v. The State of Kerala & Others

the extended duration of the selection process and the potential for additional vacancies to emerge over time – Neither logical nor equitable for the KPSC to disregard the Government's directives – KPSC's refusal amounts to an overreach of its role – It was unreasonable for KPSC to deny the Government's request to expand the rank list when the process remains within the bounds of the original notification – Government's request does not interfere with the selection process itself but pertains to the utilization of the rank list to address emergent needs – KPSC's actions not only contrary to the Government's directives but also detrimental to the broader public interest – High Court's judgment failed to account for the unique circumstances of this case and overlooked the binding nature of the tribunal's order – High Court did not adequately address the implications of the Government's role in notifying vacancies and directing the expansion of the rank list – Government's directives regarding workforce requirements are binding on the KPSC, provided they do not interfere with the integrity and sanctity of the selection process – Appellants are successful and meritorious candidates who duly placed in the rank list and not individuals who failed to meet the required standards or are seeking selection through an unwarranted expansion of the rank list – Penalizing appellants for factors beyond their control not only violate the principles of fairness but also undermine the very objective of transparent and merit-based public recruitment – Relief granted not to be confined to appellants alone but extend to all candidates who have rightfully and meritoriously appeared in the rank list, having qualified the selection process – Rights of all eligible candidates upheld while aligning with the broader principles of equity, transparency, and merit-based public employment – Order passed by the High Court set aside – KPSC directed to expand the rank list to include the additional vacancies identified by the State Government – Constitution of India – Art. 320. [Paras 17-33]

Case Law Cited

State of Punjab v. Manjhit Singh & Ors [2003] Supp. 3 SCR 856 :
(2003)11 SCC 559; *Ashok Kumar Yadav & Ors. v. State of Haryana*
[1985] Supp. 1 SCR 657 : (1985) 4 SCC 417 – referred to.

List of Acts

Constitution of India; Kerala Public Service Commission Rules of Procedure.

Supreme Court Reports

List of Keywords

Service Law; Expansion of vacancies; Refusal to expand vacancies; Post of Junior Health Inspector; Overlapping candidates in multiple lists; Selection process; Kerala Public Service Commission, an autonomous body; Prerogative of the State Government; Integrity and sanctity of selection process; Overreach of role by Public Service Commission; Role of Government to notify vacancies; Role of Public Service Commission limited to selection; Merit-based and fair public employment; Erroneous interpretation of Public Service Commission's authority; Division of responsibilities between State Government and Public Service Commission.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal No(s). 14828-14829 of 2024

From the Judgment and Order dated 14.02.2024 of the High Court of Kerala at Ernakulam in OPKAT Nos. 298 and 311 of 2023

Appearances for Parties

Nikhil Goel, Sr. Adv., Haris Beeran, Azhar Assees, Anand B. Menon, Radha Shyam Jena, Advs. for the Appellants.

Judgment/Order of the Supreme Court

Judgment

Vikram Nath, J.

1. Leave granted.
2. The present appeals arise from a judgment of the Division Bench of the High Court of Kerala dated 14.02.2024 in OP(KAT) No.298 of 2023 and in OP(KAT) No.311 of 2023, upholding the decision of the Kerala Administrative Tribunal¹ in O.A. Nos. 893/2023 and 878/2023. The matter pertains to the recruitment process conducted by the Kerala Public Service Commission² for the post of Junior

¹ In short, "KAT"

² In short, "KPSC"

Ajith G. Das & Others Etc. v. The State of Kerala & Others

Health Inspector Grade-II in the Municipal Common Service across various districts of Kerala. The dispute arose due to KPSC's refusal to expand the rank lists for the said post, despite several vacancies remaining unfilled owing to peculiar circumstances surrounding the selection process.

3. The recruitment process commenced with KPSC issuing two separate gazette notifications. The first notification, dated 26.12.2014, was published under Category No. 571/2014, inviting applications for the post of Junior Health Inspector Grade-II in the Municipal Common Service for nine districts of Kerala. Subsequently, on 29.05.2015, KPSC issued another notification under Category No. 137/2015, inviting applications for the same post in five additional districts. Both notifications outlined the eligibility criteria and detailed the selection process, which included a common written test and an interview. Following the completion of these processes, KPSC published the rank lists for the notified districts. The rank list under Category No. 137/2015 was issued on 12.02.2020 (Rank List No. 80/2020/SSV II) for some districts and on 19.02.2020 (Rank List No. 96/2020/SSV II) for the remaining districts. The appellants herein were included in these rank lists.
4. The appellants, along with similarly situated candidates, approached the KAT by filing O.A. No. 803/2019 and O.A. No. 178/2019, seeking directions to KPSC to expand the shortlist published for the post of Junior Health Inspector Grade-II in the Malappuram district (Category No. 137/2015). The appellants contended that the number of candidates included in the main list was limited to 81, owing to the unscientific criteria adopted by KPSC in the selection process. They argued that the preparation of separate rank lists for different districts under distinct notifications led to overlapping candidates being included in multiple lists. This resulted in the premature exhaustion of the rank lists due to non-joining of duty, relinquishment of claims, or candidates opting for postings in other preferred districts. Consequently, several vacancies remained unfilled.
5. The KAT, considering the extraordinary circumstances arising from the selection process and the subsequent exhaustion of the rank lists, disposed of the original applications through a common final order dated 28.11.2022. The Tribunal directed the State Government to decide on the expansion of the rank lists, taking into account the

Supreme Court Reports

observations made in its order. The State was instructed to place its decision before KPSC within three months, along with appropriate recommendations. KPSC was directed to take further action within two months thereafter. Furthermore, the concerned respondents were directed to provisionally report 50 vacancies from each district to KPSC within two weeks of the order. The interim order restraining KPSC from advising the last candidate under the open competition quota in the ranked list was also extended until compliance with the Tribunal's directives.

6. In compliance with the Tribunal's directions, the appellants and other affected candidates were heard by the Secretary, Personnel and Administration Reforms Department of the Government on 25.01.2023. After considering the matter, the Government decided to recommend the expansion of the rank lists to fill the pending vacancies. Accordingly, a recommendation dated 15.03.2023 was submitted to KPSC for necessary action. However, KPSC, by its letter dated 04.04.2023, rejected the Government's recommendation, stating that the rank lists had already included sufficient number of candidates based on the reported vacancies at the time of their preparation. KPSC relied on Rule 3 and Rule 4(iv) of the KPSC Rules of Procedure, which empower the KPSC to determine the number of candidates to be included in rank lists based on factors such as the number of vacancies reported and the nature of the post. KPSC also emphasized that the validity period of the rank lists had already expired and that further expansion would create a negative precedent, leading to similar demands in the future.
7. Aggrieved by KPSC's decision, the appellants filed O.A. Nos. 878/2023 and 893/2023 before the KAT, challenging the letter dated 04.04.2023. The Tribunal, however, dismissed these applications through its judgment dated 09.06.2023. Relying on the judgments passed by this Court in *State of Punjab v. Manjhit Singh & Ors.*³ and *Ashok Kumar Yadav & Ors. v. State of Haryana*⁴ among others, the Tribunal held that interference with KPSC's decisions regarding the preparation of rank lists was unwarranted. It was further observed that KPSC, as an autonomous selection body, possesses exclusive

3 [2003] Supp. 3 SCR 856 : (2003) 11 SCC 559

4 [1985] Supp. 1 SCR 657 : (1985) 4 SCC 417

Ajith G. Das & Others Etc. v. The State of Kerala & Others

authority to decide on matters related to the inclusion of candidates in rank lists. The Tribunal acknowledged the unique circumstances of the case, including the issuance of two notifications for the same post in different districts, which led to overlapping candidates and the premature exhaustion of rank lists. Nevertheless, it concluded that such issues did not justify judicial intervention in the administrative functions of KPSC.

8. The appellants subsequently approached the High Court, challenging the Tribunal's order. The Division Bench of the High Court, through its common judgment, dismissed the petitions, affirming the Tribunal's decision. The High Court held that while the Government serves as the employer and KPSC functions as a selection agency, neither the Government nor the Tribunal nor the Court has the authority to direct KPSC to modify or expand the rank lists to address unfilled vacancies. It was reiterated that KPSC retains full autonomy in such matters. Aggrieved by this decision, the appellants have filed the present appeals before this Court.
9. The High Court, in its impugned order, emphasized the autonomy and constitutional independence of the KPSC in the recruitment process, asserting that any interference by external authorities would undermine its intended purpose. The High Court extensively deliberated on the autonomy and constitutional responsibilities of the KPSC while addressing the question of whether KPSC is obligated to act upon recommendations made by the State Government regarding expansion of the rank list.
10. The High Court underscored that KPSC, as a constitutionally mandated autonomous body under Article 320 of the Constitution of India, is independent in its functioning and decision-making. The High Court highlighted that KPSC's independence is enshrined in the Constitution to ensure fair and transparent recruitment, free from influence or arbitrariness. It highlighted that the Government cannot interfere with KPSC's authority to prepare rank list as that would undermine KPSC's independence and autonomy, which are vital to ensuring transparent and fair recruitment. While the Government, as the appointing authority, has the right to make recommendations to KPSC regarding the number of candidates required, such recommendations are not binding on KPSC. The High Court emphasized that KPSC has the discretion to either accept or reject these recommendations

Supreme Court Reports

based on its established procedures and the constitutional mandate to uphold fairness in public employment.

11. The High Court clarified that neither the KAT nor the Courts have the authority to direct KPSC to expand the rank list or alter its decisions regarding the selection process. It held that such interference would compromise KPSC's independence, which the Constitution explicitly protects.
12. The High Court outlined the framework of the recruitment process, which involves distinct stages: the Government's responsibility to accurately report vacancies, KPSC's role in preparing rank and select lists, and the final appointments by the Government. It stressed that the Government must report vacancies in a timely and efficient manner before KPSC initiates its selection process. Referring to its earlier judgment in O.P. (KAT) No. 441/2020, the High Court reiterated that guidelines were already laid down regarding how vacancies must be reported and how the shortlist should be prepared. It concluded that once KPSC adheres to these directions during the preparation of the rank list, no authority, including the Government, Tribunal, or Courts, can interfere or direct expansion of the list.
13. Consequently, the High Court dismissed the petitions challenging KPSC's refusal to expand the rank list, affirming that its decision was consistent with constitutional principles and within its jurisdiction. It upheld KPSC's decision as within its autonomous jurisdiction and in alignment with constitutional principles and KPSC's independent authority, as a constitutionally protected body tasked with ensuring merit-based and fair public employment.
14. We have heard Mr. Nikhil Goel, learned senior counsel appearing for the appellants. No one has entered appearance on behalf of the respondents, despite service of notice.
15. Mr. Nikhil Goel, learned counsel for the appellants has made the following submissions:
 - 15.1 The High Court overlooked the constitutional mandate and regulatory framework under Article 320(3), which excludes determination of the number of vacancies from the purview of the KPSC. The appellants pointed out that the notification issued in 2014 led to the creation of a rank list in 2020, valid until February 2023, during which time eligible candidates

Ajith G. Das & Others Etc. v. The State of Kerala & Others

were reported. This notification expressly included all potential vacancies that might arise in future, considering the protracted selection process, which took six years, and the fact that no subsequent recruitment process had commenced.

- 15.2 The Government's authority to notify the number of vacancies is not constrained to the period before publication of the rank list, as implied by the High Court. They asserted that such a restriction is not supported by the constitutional provisions or their plain reading. Furthermore, they highlighted that the KAT had, in its order dated 28.11.2022, where both the Government and KPSC were respondents, recognized an extraordinary situation wherein numerous vacancies remained unfilled due to duplication of candidates' names across different rank lists. This order became final and was binding on the KPSC. The appellants criticized KPSC's rejection of the Government's recommendations, arguing that it effectively acted as an appellate authority without justification.
- 15.3 The High Court in the impugned order failed to address the extraordinary situation of unfilled vacancies or the binding nature of the KAT's order, possibly due to the absence of active participation by the Government or KPSC in the proceedings. They further pointed out the limited scope of the present appeal, involving only 27 candidates who seek to fill vacancies without displacing others. Given the delay in initiating a new selection process, they urged this Court to consider the appeal on equitable grounds and allow these candidates to be appointed to the existing vacancies.
16. Having considered the submissions made on behalf of the appellants and having perused the material on record, we find merit in the appellants' arguments and believe that it is imperative to look into the limits of the KPSC's autonomy and its power vis-à-vis the State Government with regard to the selection process and employment in Government services.
17. The primary role of the KPSC is to aid and facilitate the selection process. It functions as an autonomous body within the framework laid down by the Constitution of India, ensuring transparency and merit-based recruitment. However, its autonomy is confined to the conduct of the selection process. Determination of the number of

Supreme Court Reports

vacancies and the requisition for employees remain the prerogative of the State Government, which is the employer. This fundamental distinction was overlooked by the High Court, leading to an erroneous interpretation of the KPSC's authority.

18. The Government's role in notifying vacancies is integral to the recruitment process. It determines workforce requirements based on administrative exigencies and operational needs. The KPSC's mandate is to conduct the selection process in a manner that aligns with these requisitions. The present case underscores the need for clarity in division of responsibilities between the State Government and the Public Service Commission.
19. The notification issued in 2014 clearly indicated that the vacancies to be filled included those that might arise in future. This stipulation was made considering the extended duration of the selection process and the potential for additional vacancies to emerge over time. By the time the rank list was published in 2020, the administrative landscape had evolved, necessitating filling of more vacancies.
20. The Government, as the employer, is best positioned to assess its workforce requirements. It is neither logical nor equitable for the KPSC to disregard the Government's directives in this regard. When the Government identifies the need for additional employees and directs the KPSC to expand the rank list to accommodate these vacancies, the KPSC's refusal amounts to an overreach of its role. This refusal is particularly egregious given the extraordinary circumstances, such as duplication of names in different select lists, which have contributed to the unfulfilled vacancies.
21. The selection process under the 2014 notification spanned approximately six years, culminating in a rank list published in 2020. The validity of this rank list extended until February 2023. During this period, the Government's needs evolved, and additional vacancies arose. It is unreasonable for the KPSC to deny the Government's request to expand the rank list to include these vacancies, particularly when the process remains within the bounds of the original notification.
22. The argument that such an expansion would undermine the autonomy of the KPSC is misplaced. The Government's request does not interfere with the selection process itself but pertains to the utilization of the rank list to address emergent needs. The KPSC's refusal to

Ajith G. Das & Others Etc. v. The State of Kerala & Others

comply with this request reflects a narrow and restrictive interpretation of its role, which is not supported by the factual realities of this case.

23. The Government's ability to function effectively hinges on its capacity to deploy adequate human resources. The unfilled vacancies have a cascading effect on governance and public service. The KPSC's refusal to expand the rank list exacerbates these challenges, creating unnecessary bottlenecks in the recruitment process. The KPSC's actions, in this case, are not only contrary to the Government's directives but also detrimental to the broader public interest.
24. The appellants before this Court have waited for nearly a decade for the completion of the selection process. They stand to suffer irreparable harm if the rank list is not expanded to include them. The Government's directive to select additional candidates under the same notification does not prejudice other aspirants, particularly since the next selection process has not yet commenced. On the contrary, it serves to mitigate the inequities caused by the prolonged recruitment process.
25. The principle of equity demands that the appellants' grievances be addressed in a manner that balances individual rights with administrative exigencies. Denying them the opportunity to be considered for the additional vacancies under the 2014 notification would amount to a grave injustice.
26. The High Court's judgment failed to account for the unique circumstances of this case, including the duplication of names in multiple select lists and the resulting unfilled vacancies. It also overlooked the binding nature of the Tribunal's order dated 28.11.2022, which expressly recognized the extraordinary situation and directed appropriate remedial action. This oversight has further compounded the hardships faced by the appellants.
27. Moreover, the High Court did not adequately address the implications of the Government's role in notifying vacancies and directing the expansion of the rank list. By failing to engage with these critical issues, the High Court's judgment does not reflect a comprehensive understanding of the factual and administrative complexities involved.
28. The Government's directives regarding workforce requirements are binding on the KPSC, provided they do not interfere with the integrity and sanctity of the selection process. While the KPSC's autonomy

Supreme Court Reports

remains vital, it must be exercised within the confines of its role as a facilitator of recruitment and not as an arbiter of administrative policy.

29. We would further like to emphasise that the appellants in this case are successful and meritorious candidates who have duly qualified the selection process and secured their rightful place in the rank list. They are not individuals who failed to meet the required standards or are seeking selection through an unwarranted expansion of the rank list. Instead, these candidates have endured a prolonged wait due to administrative lapses, including the overlapping of names across multiple rank lists and the inadequate notification of vacancies. Such anomalies in the recruitment process have unfairly deprived deserving candidates of their rightful opportunities. Such administrative anomalies should not prejudice deserving candidates. Denying them the opportunity to be considered for unfilled vacancies disregards their merit and undermines the integrity of the selection process. It is imperative to ensure that such candidates are not penalized for circumstances beyond their control, as doing so would contradict the principles of fairness and equity inherent in public employment.
30. It is crucial to recognize that these appellants have already proven their merit and eligibility, and their inclusion in the rank list is a testament to their capability and diligence. The mere fact that certain vacancies remained unfilled due to procedural and administrative inefficiencies should not result in these candidates being excluded from consideration. Moreso, as their employer-the State of Kerala had requested the KPSC to expand the rank list and recommend further names for appointment against existing vacancies. Penalizing them for factors beyond their control would not only violate the principles of fairness but also undermine the very objective of transparent and merit-based public recruitment. Ensuring that these qualified candidates are given their due opportunity is both an equitable and constitutionally sound approach to address the extraordinary circumstances of this case.
31. The impleadment application bearing I.A. No.209123 of 2024, filed by eighteen other candidates appearing in the rank lists, is hereby allowed.
32. It is submitted by the appellants that the relief prayed for is limited to the twenty seven candidates before us, nine in the appeals admitted and eighteen through the impleadment application. The

Ajith G. Das & Others Etc. v. The State of Kerala & Others

relief granted in this case shall not be confined to these appellants alone but shall extend to all candidates who have rightfully and meritoriously appeared in the rank list, having qualified the selection process. This ensures that the benefit of the decision applies uniformly to all eligible candidates who were included in the rank list and are awaiting appointment. Extending the benefit under this decision to all candidates in the merit list is only fair and equitable since it is possible that other similarly placed candidates may not have approached this Court owing to financial or other constraints, which shall not be an impediment to their career prospects and a fair, merit-based selection process for public employment. The principle of fairness dictates that all such qualified candidates should be considered for selection through the impugned process, whether they are before us or not, although such selection shall be strictly in accordance with their merit and the requirements notified by the State Government. By directing the KPSC to expand the rank list and fill the additional vacancies, this Court seeks to uphold the rights of all eligible candidates while aligning with the broader principles of equity, transparency, and merit-based public employment.

33. The appeals are accordingly allowed. The impugned judgment of the High Court is set aside, and the KPSC is directed to expand the rank list under the 2014 notification to include the additional vacancies identified by the State Government. The KPSC shall take all necessary steps to facilitate the selection process of the qualified candidates, as per their merit, in accordance with the requirement notified by the State Government, from the same selection process without any further delay.
34. Pending applications(s), if any, shall stand disposed of.

Result of the Case: Appeals allowed.

[†]Headnotes prepared by: Nidhi Jain