

E. RAMAKRISHNAN AND ORS.

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v.

THE STATE OF KERALA AND ORS.

SEPTEMBER 4, 1996

[K. RAMASWAMY AND FAIZAN UDDIN, JJ.]

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*Service Law :*

*Regularisation of ad-hoc employees—Candidates selected by Service Commission awaiting appointment—Direction of High Court to give appointment to the selectees and to notify vacancies—Held : High Court rightly gave the direction—Government could not take any decision contrary to the Constitution to regularise the service of candidates de hors the recruitment rules and the statutory process for selection through Public Service Commission—Constitution of India, Art. 320.*

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*State of Haryana v. Piara Singh*, [1982] 4 SCC 118, referred to.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 16725 of 1996.

From the Judgment and Order dated 24.6.96 of the Kerala High Court in O.P. No. 17422 of 1993.

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Mathai M. Paikeday, C.N. Sree Kumar and Shaju Fraacis for the Petitioners.

The following Order of the Court was delivered :

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The petitioners were appointed as Field Workers in the Filaria Department of the State Government between 1981 and 1985. In the first instance, they had filed W.P. No. 250/92 and the High Court directed the Government to consider their representation and dispose it of by judgment dated January 18, 1993. When they came to this Court, this Court directed the Government to consider their cases in the light of the law laid down by this Court in *State of Haryana v. Piara Singh*, [1982] 4 SCC 118. Subsequently, since the Government had not taken any steps, the petitioners filed another writ petition. In the meanwhile, the Public Service

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A Commission (PSC) had selected the candidates who were not being appointed. Therefore, the selectees approaches the High Court and filed the writ petition. The petitioners also filed the writ petition in the High Court seeking for regularisation. The High Court in the impugned order dated June 24, 1996 in O.P. No. 17422/93 dismissed the batch of the writ petitions filed by the petitioners, allowed the writ petitions filed by the selectees and directed the Government to appoint the candidates selected through the PSC. It also directed the Government to send the requisition to the PSC to fill up the posts of 30 vacancies from the list of the selected candidates prepared by the PSC. Thus this special leave petition.

C It is sought to be contended by Mr. M.M. Paikeday, learned senior counsel for the petitioners that in the light of the law laid down by this Court in *Piara Singh's* case and in view of the fact that the petitioners have been continuing for more than 14 years, they are required to be regularised. We find no force in the contention. Admittedly, the posts are to be filled up through selection by PSC recruitment norms. Necessarily, therefore, the requisition was sent for selection through the PSC and candidates came to be selected. Under those circumstances, the candidates, who were found eligible and selected and recommended for appointment by the PSC, were required to be appointed. The Court rightly had exercised the power in declining to regularise the services of the petitioners.

F The learned counsel sought to rely upon an order of the Government where the Government had decided to regularise the services of the *ad hoc* employees. Obviously, since the decision runs into the teeth of statutory requirement under Article 320 of the Constitution the Government cannot take any decision contrary to the Constitution to regularise the services of the candidates *de hors* the recruitment rules and the statutory process for selection through the PSC. The High Court, therefore, has rightly given direction to the Government to notify 30 vacancies and odd or whatever may be the vacancies existing to fill up from amongst the candidates selected by the PSC.

H It is then contended that the petitioners have turned over-aged and, therefore, necessary direction may be given to regularise their service by filling up the unfilled posts. Even that relief also cannot be granted. If the petitioners have turned over-aged on the date of recruitment, it would be

for the appropriate Government to relax the age requirement and the petitioners have to stand in the queue and get selection through the PSC. Thus what they get is only the right to appointment to the posts. A

The special leave petition is accordingly dismissed.

G.N.

Petition dismissed.