

(1991) 10 KL CK 0022

High Court Of Kerala

Case No: O.P. No. 4442 of 1987

Kerala Criminal Judicial Staff
Association

APPELLANT

Vs

State of Kerala and Another

RESPONDENT

Date of Decision: Oct. 1, 1991**Acts Referred:**

- Constitution of India, 1950 - Article 14, 16, 235

Hon'ble Judges: K. Sreedharan, J**Bench:** Single Bench**Advocate:** C.K.S. Panicker, for the Appellant; Chincy Gopakumar, Government Pleader, for the Respondent**Final Decision:** Dismissed

Judgement

K. Sreedharan, J.

Petitioner is a registered Association, known as Kerala Criminal Judicial Staff Association. It is represented by its General Secretary. This Association represents Peons attached to various judicial officers of the Criminal Judiciary. According to Association, the practice of employing last grade servants for the personal and domestic use of judicial officers is against the circulars and orders issued by Government. By Ext. P-3 circular dated 9th January 1978, issued by the High Court of Kerala, bringing of lunch or tiffin to the chambers of judicial officers has been made part of the duty of personal Peons. Petitioner Association objects to this action of the High Court. Later the High Court directed that where Peons engaged for taking lunch to the Presiding Officer actually incur expenses by way of bus fare for travel, it is the responsibility of the Presiding Officers to reimburse such expenses to the Peons. It is the Petitioner's case that last grade employees in the criminal judicial service are appointed from a common rank list prepared by the Public Service Commission as is being done in the other departments. The last grade employees who are working as Peons in other departments are strictly prohibited from

bringing lunch or tiffin to the superior officers. In such a situation, the High Court's circular and clarification that bringing of tiffin or lunch to the chamber of the Presiding Officer are part of their personal duties is discriminatory and violative of Articles 14 and 16 of the Constitution of India. On these averments Petitioner prays for a declaration that bringing of lunch or tiffin to the chambers of judicial officers of the criminal judiciary is not part of the duty of the last grade employees. It is also prayed that circular No. C2-15253/77 dated 19th January 1978 (circular No. 1/78) be quashed.

2. On behalf of the State, a detailed counter-affidavit has been filed. The contentions taken therein are to the following effect: The duties "of salary Peons in the judicial department have not been specified or categorised anywhere. The High Court felt that all assistance, required to enable an officer to whom the Peon is attached, to discharge his duties effectively and without waste of time should be provided. The lunch hour is available to the judicial officer to attend to administrative work. Rest of his time is taken up by judicial work. If the officer has to go home for his lunch, that will automatically reduce the time available for judicial work. Taking into consideration the public interest, the High Court took the view that bringing lunch for the officer is a legitimate duty of a salary Peon. It has also been directed that the expenses, if any, to be incurred by the Peon in this connection should be reimbursed by the officer concerned. Under Article 235 of the Constitution, the High Court is competent to issue such a direction. Some benefits are exclusively enjoyed by the salary Peons. They are getting a special pay of Rs. 20 per month. Nowhere the duties of Peons have been defined. They are to work on the directions of the officers under whom they are working. The directions issued by the High Court cannot be considered as violative of the provisions of Articles 14 or 16 of the Constitution. In this view, it is contended that last grade servants in all the courts, civil and criminal are to attend to the duties mentioned in Ext. P-3 circular.

3. Second Respondent, the Registrar of the High Court of Kerala has filed a separate counter-affidavit. The contentions taken therein are similar to those mentioned in the counter-affidavit filed by the first Respondent.

4. All last grade Government servants including those in the judicial department are appointed from the rank list prepared by the P.S.C. The duties of last grade servants appointed in various departments vary depending on the nature of the work of the department. Even in judicial department, their duties are different. The duty of the Process Server is mainly serving of process. They are also to carry the record box to the residence of the Presiding Officers. The duties of Peons attached to the office are to keep the office neat and tidy and to attend to the other duties as directed by the superiors. These categories of last grade employees are to perform the night watch duty in the office. The duties of salary Peons are entirely different from the above mentioned categories of last grade employees. They are getting a special pay of Rs. 20 per month whereas office Peons and Process Servers are not entitled to

such a pay. All these indicate that the duties and responsibilities of last grade employees even in one and the same department drastically vary depending on the nature of work which is assigned to them. All the members of the last grade servants in one office cannot be directed to do one and the same nature of duty. They will have to be deployed for different purposes. One will have to be sent to the treasury, one will have to be deputed to the stationery department to fetch stationery items and yet Anr. will have to be deputed for taking files from one section to Anr. . Lady Peons are not being deputed for night watch duty. These directions issued to different Peons attached to the same office cannot be taken as violative of the provisions contained in Articles 14 and 16 of the Constitution. If this argument is accepted, the very functioning of the office will come to a stand-still. All the last grade employees in an office cannot reasonably be directed to do the same nature of work. The High Court is competent to issue directions for the smooth functioning of the department. In the public interest, the High Court has issued Ext. P-3 circular. It makes bringing lunch or tiffin to the chambers of the judicial officers as part of the duty of the personal Peons.

5. Judicial Officers are not expected to mingle with the public freely. They cannot go to hotel during lunch interval for taking food along with the clients and witnesses who are to attend the court. Further, all judicial officers have to attend to administrative work besides the judicial work. The only time available for them to attend to the administrative work is the lunch interval. If they are not getting the facility to have the lunch or tiffin brought to their chambers, the lunch interval will be spoiled by their going home for taking lunch or to the hotel for taking food. Taking all these aspects into consideration, the High Court issued the direction declaring that bringing of lunch or tiffin to the chambers of the judicial officers will be part of the duty of salary Peons. Considering this special nature of their duty, they are being paid special pay. Expenses incurred by the Peons will be reimbursed by the officers under whom they are working. This will safeguard the rights of the personal Peons. For the smooth functioning of the courts, they have to be entrusted with the above duty. It will serve public interest as well. The very purpose in allotting of salary Peons to the residence of the officers will be defeated in case they are not to have the duty of bringing lunch or tiffin to the chambers.

6. The Petitioner has stated:

Petitioner is aggrieved not because the members are asked to bring the tiffin or lunch but making it compulsory and part of their duty. They will only be happy to do whatever service which is expected of them. But making it compulsory and make it part of their duty is unjustifiable and not supported by any rule.

If they are happy to do the duty there is no point in being aggrieved on the mere fact that the competent authority after due consideration of all aspects in the matter declared that this will form part of their duties. If it is not made part of their duty, the judicial officers will not be in a position to enforce the obligation of the salary,

Peons to bring lunch or tiffin to their chambers. The officers may not get the help of that personal Peon who is not willing to bring the lunch to their chambers. So it is highly necessary to make it a duty of the personal Peon. I do not find any illegality in the circular, Ext. P-3 issued by the High Court. That circular is applicable to all last grade servants attached to all the Courts.

Original Petition fails. It is dismissed.