

(2005) 07 KL CK 0043

High Court Of Kerala

Case No: Writ Petition (C) No. 17789 of 2004

Federation of Central
Government SC/ST Employees

APPELLANT

Kochi Refineries Ltd.

Vs

RESPONDENT

Date of Decision: July 20, 2005

Acts Referred:

- Constitution of India, 1950 - Article 12, 14, 16, 16(1)

Citation: (2006) 2 ILR (Ker) 699 : (2006) 3 KLT 9

Hon'ble Judges: Rajeev Gupta, C.J; K.S. Radhakrishnan, J

Bench: Division Bench

Advocate: Party in Person, for the Appellant; P.K. Kurian and Antony Dominic, for the Respondent

Final Decision: Dismissed

Judgement

K.S. Radhakrishnan, J.

Recruitment of Management Trainees through the process of campus recruitment from reputed institutions, if resorted to by the public sector undertakings, would violate Articles 14 and 16(1) of the Constitution, is the interesting question that has come up for consideration in this case.

2. Government of India issued Office Memorandum dated 29.5.2000 permitting public sector enterprises in the country to recruit personnel through campus recruitment from reputed institutions like IITs, IIMs, RECs, etc. Considering the fact that the nature of functions and operations of public sector enterprises are different, Government of India noticed that manpower requirement is also dissimilar and largely of a heterogeneous nature and it may not be necessary to restrict selection process to a particular method. Public sector enterprises, it was pointed out, should have detailed recruitment rules for recruitment of Management Trainees by open competition and Government of India ordered, if found necessary,

they may lay down provisions for campus recruitment in the exigencies of dynamic corporate management, from reputed institutions like IITs, IIMs, RECs etc. or through walk-in interview route in rare and exceptional circumstances where there are compelling reasons and with the prior approval of the Board of Directors.

3. Public sector undertakings of Government of India such as Bharat Petroleum Corporation Limited, Oil and Natural Gas Commission, Indian Oil Corporation, Hindustan Petroleum Corporation Limited, Bharat Electronics Limited, Hindustan Latex Limited, Cochin Shipyard Limited, apart from Indian Navy, Indian Satellite Research Organisation and Defence Research and Development Organisation have already resorted to campus recruitment. Respondent - Kochi Refineries Limited is a subsidiary company of Bharat Petroleum Corporation Limited which has established a refinery at Ambalamughal and for the efficient running of it, it has appointed necessary employees in the managerial and non managerial cadre. Factory is engaged in refining petroleum products. Deputy Manager (Personnel) of the Kochi Refineries Limited sought approval from the Board of Directors as envisaged in the Office Memorandum of the Government of India dated 29.5.2000 for making campus recruitment as one of the selection methodologies for selection of management trainees. List of institutions from which Management Trainees could be selected was also placed before the Board of Directors. Board of Directors of Kochi Refineries Limited met on 27.10.2003 had approved the procedure followed for recruitment of Management Trainees through campus interview. Procedure adopted for recruitment of Management Trainees is provided in Ext.R1 (d) which requires no further reiteration. Reputed institutions from where campus recruitment is to be resorted to have also been approved by the Board of Directors.

4. The Kochi Refineries Limited in pursuance of Ext.R1 (d) gave intimations to Indian Institute of Technology, Chennai and National Institute of Technology, Kozhikode, Suratkal, Trichy and Warrangal etc. evincing their interests in campus recruitment. Students who met the criteria laid down by the company were called for interview during December 2003 and January 2004. Eighteen candidates from different engineering disciplines were provisionally selected from the four National Institutes of Technology. So far as four Chartered Accountants who are to be recruited are concerned, intimation was given to the Institute of Chartered Accountants at Chennai and Bangalore. Following the similar process of selection, four candidates were provisionally selected. While selecting candidates respondent has also taken care to see that the order of reservation issued by the Government of India is complied with. Among the 18 engineering candidates selected, six belong to OBC, two belong to SC and one to ST category. Two selected candidates are physically handicapped, out of which one belongs to OBC category. Out of the four selected Chartered Accountants, two belong to OBC category and one general candidate is physically handicapped. Provisional selection of these candidates was subject to the general candidates passing the final examination with first class and those belong to SC/ST category a pass. Similarly eligible relaxation in age limit was also extended to

SC/ST, OBC and physically handicapped candidates. Successful candidates who met the eligibility criteria including the medical fitness were issued final orders on 14.6.2004. Pursuant thereto those candidates who joined as Management Trainees on 1.7.2004 have commenced the training period. Those who completed the training successfully are eligible to be considered for absorption against vacancies in grade A posts in the managerial cadre.

5. Petitioner, Federation of Central Government SC/ST Employees (Kerala), have approached this Court seeking a writ of certiorari to quash the select list of personnel as Management Trainees (in technical and non-technical areas) made by the respondent through campus recruitment contending that the recruitment of personnel through campus recruitment would offend Article 16(1) of the Constitution of India. Recruitment, according to the petitioner, by selecting a few candidates before they obtain degree is against the statutory norms and guidelines issued by the Government of India. Reference was made to the Office Memorandum No 6/19/89-BPE (SC/ST Cell) dated 25.4.1991 issued by the Ministry of Industry, Department of Public Enterprises on reservation of SCs and STs in appointments in various public enterprises, issue of revised Presidential Directives. Further it is also pointed out that the recruitment rules of the respondent company does not specify campus recruitment as a method of recruitment. Reference was made to Ext.P3 recruitment rules. Further it is also stated that there are no compelling reasons for resorting to campus recruitment for the posts of Management Trainees in technical areas and non technical areas such as Finance and Accounts Department. Equality of opportunity envisaged under Article 16 of the Constitution of India would be infringed if all the eligible persons are not allowed to compete with others for the posts of Management Trainees. No publicity has been given inviting applications from eligible candidates which would offend Article 14 of the Constitution of India. It is also stated that respondent is "State" within the meaning of Article 12 of the Constitution of India and is bound to follow the various directives issued by the Government of India in the matter of recruitment of personnel. Reference was made to various orders issued by the Government of India in the matter of recruitment of personnel to public sector undertakings. Further the method followed by the respondent by conducting campus recruitment from selected colleges in south India is also unfair and discriminatory.

6. President of the Federation Sri R. Murugaiyan appeared in person and submitted their contentions ably. The method of campus recruitment if resorted to, contended by the writ petitioners would violate Article 16(1) of the Constitution. Counter affidavit has been filed on behalf of the respondent. Senior Counsel Sri P.K. Kurian emphasised the necessity of campus recruitment which is one of the selection methodologies for recruitment to the post of Management Trainees adopted by the Company. Counsel submitted competition among other public sector undertakings, private enterprises and multinationals has compelled the respondent to evolve new methodologies to get best talents well-versed in latest management techniques.

Counsel submitted that the procedure followed by the respondent is approved by the Government of India and have resorted to campus recruitment with all bona fides and in the best interest of the company. Counsel submitted that the selection process was transparent and the reservation principles have been followed.

7. Our country is following a pattern of mixed economy in which State or the public sector enterprises exist side by side with private sector. In India, munition, atomic industry and railways etc. are exclusively reserved for State sector. Due to liberalisation, areas which were earlier exclusively reserved for State sector, have opened up to private sector as well. State sector and the private sector enterprises are now operating in certain given sectors, shoulder to shoulder. Productive enterprises and profit making enterprises are also left to private sector. Earlier in India, power equipment industries, parts of product and pharmaceutical industry, parts of fertiliser industry, heavy chemical industry and some areas of machinery industry were in State sector. Respondent and other similarly placed public sector undertakings were earlier not exposed to competition from other public sector units or private sector units and were enjoying the monopoly status in petroleum sector. With the opening of petroleum sector to industries in private sector, there is competition also from multinational companies and private companies which have gained entry into Indian market. Public sector enterprises have therefore to achieve reduction in cost of production in order to maintain and further improve their prospects. Change of economic scenario in the country has alerted various public sector undertakings to explore different methodologies to improve the quality of their manpower. Unless they improve their quality of manpower they may not be able to cope up or compete with other multi national companies and private companies who are already in the field. Public sector enterprises now face stiff competition in the area of petroleum products and they require today sufficient tools in their armory to withstand threat of multinational and private companies. Multinational and other private companies employ best talents who come out of educational institutions of repute like IITs, HMs etc. with attractive offers even before they pass out of their institutions through the method popularly known as campus recruitment. Every year it is well known that best talents are being absorbed by these multinational companies and private sector companies in the country. Public sector enterprises which are facing stiff competition in these areas should also absorb talented students who come out of educational institutions so that they could utilise their expertise to match the multinational and private sector companies. Campus recruitment has now come to stay in our country.

8. Question that is posed for consideration is whether such a method would offend Article 16(1) of the Constitution of India and other laid down procedures. Article 16(1) states equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

9. Persons who sought to be recruited through campus recruitment form a class by themselves. Classification of those categories of persons as a group keeping in view of the administrative exigencies and efficiency cannot be said to be arbitrary or violative of Article 16(1) of the Constitution of India. Campus recruitment has a reasonable nexus to the office to which such recruitment is to be made. Classification based on some qualities or characteristics of the persons grouped together cannot be found fault with, provided those qualities have a reasonable nexus to the objects sought to be achieved. Guarantee of equality does not imply that same recruitment rules should be made applicable to all persons in spite of differences in their circumstances and conditions. Articles 14 and 16 though forbid hostile discrimination do not forbid reasonable classification and equality of opportunity in the matter of appointment. When State indulges in Business or in Commercial venture and there is cut throat competition new and novel methodologies have to be adopted lest they may lose in the race which will be against national interest. International Market Economy driven by strident advance of technology necessitated dynamics of technology management. In order to remain competitive in international markets, it becomes imperative that, public enterprises should have quality managers who know nuances of latest management technology, who can develop systems and strategies sounded for new business environment. Advent of globalization, process elimination of trade barriers and more sophistication and development around the world demand new strategies and methods to overcome competition, especially when State is indulging in commercial activities. Viewed in the above mentioned perspective campus recruitment, if adopted as one of the sources of recruitment, will have a rational nexus with the objects sought to be achieved.

10. Campus recruitment is a method adopted to recruit personnel from the campus even before they pass out of the college after making screening. If recruitment is resorted to after they qualify inviting applications best talents by the time would have been absorbed by their competitors. In selected areas, in our view, where respondent has to compete with other multinational and private sector companies in the present economic scenario methods like campus recruitment can be resorted to. We are not prepared to say that the recruitment through campus recruitment adopted by the respondent is illegal unless and until it is shown that there is arbitrariness in the selection process undertaken by the respondents. Petitioners' grievance is against the method of recruitment and not the manner of recruitment. No candidate who is in any way affected by the campus recruitment has approached this Court challenging the selection process. Since the selection process is not challenged by any prospective candidate we have to take it that the process is transparent.

11. We have already held that the method of campus recruitment as such would not offend Article 16(1) of the Constitution and hence we repel the challenge made by the Writ Petitioner and dismiss the Writ Petition.