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High Court Of Kerala

Case No: W.A. No''s. 1276 of 1992 and 1099 and 1100 of 1994 etc.

Basheer		APPELLANT
	Vs	
Kerala Assistant Motor Vehicles Inspectors Association and Others		RESPONDENT

Date of Decision: Nov. 24, 1994

Acts Referred:

- Constitution of India, 1950 - Article 309
- Kerala Motor Vehicles Rules, 1989 - Rule 103, 116, 2, 24(2), 405
- Kerala Public Services Act, 1968 - Section 2
- Kerala Transport Subordinate Service Rules - Rule 2, 3, 4
- Motor Vehicles Act, 1939 - Section 133A, 313
- Motor Vehicles Act, 1988 - Section 2(20), 2(37), 213, 213(1), 213(3)

Hon'ble Judges: T.L. Viswanatha Iyer, J; D.J. Jagannadha Raju, J

Bench: Division Bench

Advocate: C.P. Sudhakara Prasad, K.A. Abdul Gafoor, S.M. Prem, Pirappancode V. Sreedharan Nair, C.S. Rajan, Alexander Thomas and George Varghese Kannanthanam, for the Appellant; Mathai M. Paikaday, for Respondents Nos. 1 and 2, Sr. Govt. Pleader for Respondents 3 to 5, C.S. Abdul Samad, for Respondent No. 6, M.V.S. Namboothiri, M.V. Joseph and K.K. Gopinathan Nair for Respondents Nos. 7 to 11, for the Respondent

Judgement

Jagannadha Raju, J.

The common question that is involved in this batch of Writ appeals is the effect of Ext. P-4 notification issued by the Central Government u/s 213(4) of the Motor Vehicles Act, 1988 on the Kerala Transport Service Rules in force and the Kerala Transport Subordinate Service Rules. It is claimed by one set of people that after the Government of India prescribed the minimum qualifications under Ext. P-4 notification dated 12th June 1989, it is not open to the State Government to make appointments to the posts of Joint Regional Transport Officers, and Regional

Transport Officers, if they do not have the minimum qualifications prescribed under Ext. P-4 notification. In effect they claim that making appointments and promotions to the posts of Regional Transport Officer and Joint Regional Transport Officer in accordance with the existing Special Rules for the Kerala Transport Services is illegal. Anothet set of people contend that even after Ext. P-4 notification which was duly amended on 24th June 1991 it is perfectly legal to make appointments to the posts of Joint Regional Transport Officer and Regional Transport Officer from persons who satisfy the criterion prescribed under the Special Rules and who do not have the qualifications prescribed under Ext. P-4. It is claimed by them that Ext. P-4 prescribes the qualifications only for the posts of Motor Vehicle Inspector and Assistant Motor Vehicle Inspector and the posts of Joint Regional Transport Officer and Regional Transport Officer are not governed by Ext. P-4. The technically qualified employees on the other hand contend that the posts of Joint Regional Transport Officer and Regional Transport Officer involved duties of technical char acter and hence they are also posts for which the minimum qualifications prescribed under Ext. P-4 would apply as the Central Government has prescribed the minimum qualifications for the post of "Inspector of Motor Vehicles" and under the Kerala Rules, the Regional Transport Officer and Joint Regional Transport Officer along with the Motor Vehicle Inspectors and Assistant Motor Vehicle Inspectors come within the ambit of Inspector of Motor Vehicles".

2. To understand the controversy in this batch of writ appeals, the relevant facts should be mentioned in brief. Prior to the coming into force of the Motor Vehicles Act of 1988 (Act 59 of 1988), the Motor Vehicles Act of 1939 (Act 4 of 1939) was in force. The new Act came into force on 1st of July, 1989. Under the old Act of 1939 Section 133A dealt with appointment of Motor Vehicles Officers. Sub-section (1) contemplated the State Governments establishing a Motor Vehicles Department and appointing officers there of such persons as it thinks fit. Sub-section (3) contemplated the State Government making rujes to regulate the discharge by officers of the Motor Vehicles Department of their functions. That, section did not provide for the Central Government prescribing qualifications for the officers to be appointed to the Motor Vehicles Department. For the first time under the new Act in Section 213 which corresponds to the old Section 133A a new provision was introduced as Section 213(4). Under that Sub-section, the Central Government was enabled to prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such. Sub-section (4) of Section 213 reads as follows:

213(4) The Central Government may, having regard to the objects of the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such.

Before this new provision came into force and before Ext. P-4 notification was made the appointments were being made on the basis of the Kerala Transport Service

Special Rules which were framed in S.R.O. 1164/81 under the powers of Section 2 of the Kerala Public Service Act, 1968. Prior to the passing of the Kerala Public Service Act, 1968 these Special Rule were framed under the proviso to Article 309 of the Constitution. Similarly Special Rules for the Kerala Transport Subordinate Service were framed for the only cadre governed by those Rules, viz., the Assistant Motor Vehicles Inspectors.

3. Soon after Ext. P-4 notification was issued by the Government of India, the Kerala Assistant Motor Vehicles Inspectors Association made representations to the State Government contending that in view of Ext. P-4 persons from the general service and the administrative service cannot be posted to the posts of Regional Transport Officer and Joint Regional Transport Officer and only persons having the technical qualifications as prescribed under Ext. P-4 should be appointed to these posts. When the representations were not considered and when the representations did not get any results, they have come forward with O.P. No. 2169/91 seeking the reliefs that after Ext. P-4 notification no person who does not possess the qualifications prescribed under Ext. P-4 should be appointed to the class of posts designated as "Inspector, of Motor Vehicles" and hence persons without technical qualifications cannot be appointed to the posts of Joint Regional Transport Officers and Regional Transport Officers, because they are also enjoined to perform the duties of registering authorities and licensing authorities which come within the ambit of Inspector of Motor Vehicles. A learned Single Judge disposed of the above original petition at the stage of admission on 14th March 1991. Considering the fact that the representations made by the Association on 4th August 1988 and 14th February 1991 were pending with the Government, the learned Single Judge was pleased to direct the State Government to pass final orders on Ext. P-4 and Ext. P-7 representations in accordance with law and in the light of the observations made in the judgment expeditiously, at any rate, within two months from the date of receipt of the judgment. The learned Single Judge also directed the State Government to give an opportunity to the Association to represent its case before final orders are passed. The State Government after giving a personal hearing, considered Exts. P-4 and P-7 and then passed Ext. P-8 order dated 24th June 1991. The State Government, after referring to the various provisions of the Act and the rules and the legality of the Rules, did not accept the representations and it also came to the conclusion that reconsideration of the provisional promotions already made is not warranted. Accordingly, Ext. P-4 and Ext. P-7 representations in O.P. No. 2169 of 1991 were rejected. Aggrieved by Ext. P-8 order, O.P. No. 8345/91 was filed by the Association and one Assistant Motor Vehicle Inspector. Several other persons filed different petitions and all those petitions were decided by a common judgment dated 23rd August 1994. Aggrieved by that judgment, the present appeals have been filed.

4. The learned Single Judge took the view that the provisions of the notification, Ext. P-4, issued by the Central Government u/s 213(4) of the Motor Vehicles Act would

prevail over the provisions contained in the Kerala Transport Service Rules and came to the conclusion that the term "Inspector of Motor Vehicles" is used to denote a group of officers and not a particular post. The learned Single Judge was of the view that the phrase "Inspector of Motor Vehicles" brings within its ambit the posts of Joint Regional Transport Officers and Regional Transport Officers. The learned Single Judge rejected the contention that the posts of Joint Regional Transport Officers and Regional Transport Officers do not come within the ambit of the term "Inspector of Motor Vehicles" used in the notification. The learned Single Judge felt that as the Joint Regional Transport Officers and Regional Transport Officers are expected to discharge duties of technical nature also it would be desirable that they should have technical qualifications. The learned Single Judge distinguished the judgment in O.P. No. 5612 of 1981 which dealt with an almost identical claim on the ground that that decision was rendered before the new Motor Vehicles Act came into force. In view of the conclusions arrived at by the learned Single Judge, the learned Single Judge directed that all the appointments and promotions made to the posts of Joint Regional Transport Officers and Regional Transport Officers after 1st July 1987 have to be reviewed even without a formal amendment of the Special Rules. While making such review the amendment to the notification made on 29th April 1991 has to be taken into consideration. The court further directed that all further promotions shall be made only on the basis of the qualifications prescribed under Ext. P-4 issued by the Central Government. Promotions Granted to those who are having the qualifications prescribed under the notification, Ext. P-4 will not be reviewed unless it is to their benefit by granting an earlier date of promotion. The court quashed Ext. P-8 and gave a further direction as follows:
There will be a further direction to the State Government to proceed with the proposed amendment to the Special Rules as expeditiously as possible.

Aggrieved by that judgment, the various writ appeals have been filed.

5. One important aspect which will have to be borne in mind while deciding these writ appeals is, the State Government seems to be taking conflicting stands at different points of time. When the State Government passed Ext. P-8 order on 24th June 1991. it has taken a clear cut stand to the effect that the notification issued by the Central Government u/s 213(4) will not apply to the posts of Joint Regional Transport Officer and Regional Transport Officer and that Ext. P-4 applies only to Motor Vehicle Inspectors and Assistant Motor Vehicle Inspectors in Kerala State. By referring to various Rules and provisions of the Act, the State Government pointed out that the various posts in the Departmental hierarchy are mutually exclusive.

6. Motor Vehicle Inspectors and Assistant Motor Vehicle Inspectors alone are covered by Ext. P-4 notification. Neither in the Act nor in the Rules or in the notification qualifications for other officers of the Department are prescribed by the Central Government. The State Government is still competent to prescribe the qualifications, methted of appointment, etc. for the posts of Joint Regional Transport

Officers and Regional Transport Officers. It also stated that there is no indication whatsoever in the Rules that the expression "Motor Vehicle Inspectors" has been used in the Kerala Motor Vehicles Rules to mean all the categories of authorities, viz., Registering Authority, Licensing Authority, Regional Transport Officers and Joint Regional Transport Officers.

7. At the stage of the original petitions, the State Government filed counter only in O.P. No. 10732/92 and it was adopted as the counter in the other original petitions. In the counter filed on 28th July 1993, the State Government took the stand that u/s 213(4) Government of India prescribed minimum educational qualifications to the class of Officers consisting of category of Inspector of Motor Vehicles (by whatever name called). It also stated that the Government has since decided to prescribe the technical qualifications as a must for the officers of and above the rank of Joint Regional Transport Officer and that action has been initiated to amend the Special Rules to prescribe the minimm technical qualifications to those posts. But till the Rules are amended, appointments to the posts of Joint Regional Transport Officer and Regional Transport Officer are governed by the Special Rules for the Kerala Transport Service and till the Special Rules are amended incorporating the technical qualifications for the posts of Joint Regional Transport Officers and Regional Transport Officers, the Government is bound to promote the senior Superintendent/ Junior Accounts Officer who do not possess the technical qualifications to the posts of Joint Regional Transport Officer and above. It also stated that all persons who are qualified as per the Special Rules alone have been promoted ana appointed to the posts of Joint Regional Transport Officers and Regional Transport Officers. It further stated that the qualifications prescribed as per the prevalent law are followed and all incumbents are fully qualified. While making appointments to the posts of Joint Regional Transport Officer and Regional Transport Officer the ratio prescribed under the Special Rules and the qualifications prescribed are scrupulously followed. The counter further stated that if the contention in the writ petition is accepted, it will result in reversion of several people who do not hold the technical qualifications and who are already working in the higher posts of Joint Regional Transport Officer, Regional Transport Officer and above may have to be reverted. Such a thing cannot be done as they were promoted in strict accordance with law at the time of their promotions.

8. At the stage of arguments, we have categorically asked the learned Government Pleader as to what is the stand of the Government. He asserted that according to the note file provided to him by the Department, the Minister desired, that technical qualifications should be prescribed for the posts of Joint Regional Transport Officer and Regional Transport Officer also and the various departmental authorities were against the view taken by the Hon''ble Minister for Transport. Ultimately action was initiated and some draft Rules have been prepared. Unless the Rules are approved by the Law Department and the Subordinate Legislative Committee, they cannot be promulgated and they cannot be brought into force. The sum and substance of this

submission is that the Government entertains the intention to amend the Rules. But the exercise is not completed. The matter may be decided as per the prevailing law. He admits that under the Special Rules now in force for appointments to the posts of Regional Transport Officers and Joint Regional Transport Officers, technical qualifications are not essential.

* * * * * *

(His Lordship summarised the contentions of advocates apppearing for the Appellants in various appeals and proceeded):

18. In the light of the above arguments, the crucial questions involved in this batch of writ appeals will have to be considered. In our considered view, the following questions arise for determination in this batch of writ appeals:

(1) Whether the Kerala State Transport Service Rules and the Kerala State Transport Subordinate Service Rules continue to be valid and operative after 1st July 1989?

(2) Whether Ext. P-4 notification dated 12th June 1989 SO 443 (E) as amended on 29th April 1991 as par SO 381 (E) applies to the posts of Joint Regional Transport Officer and Regional Transport Officer in the State of Kerala?

(3) Whether Ext. P-4 notification as amended superseded the State Transport Service Rules and the Kerala State Transport Subordinate Service Rules?

(4) Whether the State Rules for Transport Service and the State Transport Subordinate Service Rules are in conflict with Ext. P-4 notification as amended or whether they are reconcilable and they can co-exist?

(5) Whether Ext. P-8 order dated 24th June 1991 is liable to be quashed?

19. Points 1 to 4.-To appreciate the real controversy in this batch of writ appeals, we have to see the historical development of the Motor Vehicles Act and the Rules framed thereunder and the Rules framed for officers belonging to the State Motor Vehicles Department. Prior to the passing of the Act 59 of 1988, (herein-after called the new Act), the Motor Vehicles Act of 1939 (Act 4 of 1939) was in force (hereinafter called the old Act). Under the old Act Section 133A corresponded to Section 213 of the new Act. u/s 133A of the old Act, there was no provision for the Central Government prescribing any qualifications for any of the officers of the Motor Venicles departments of the States. Under Sub-section (1), the State Government was obliged to establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit. Sub-section (3) contemplated that the State Government can maker rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and powers exercised by them. In the State of Kerala, under the old Act, different sets of Rules were framed for different subjects covered by the Act and no Rules were framed u/s 133A regarding the officers of the Kerala State Motor Vehicles Department. But at the same time with

regard to the Kerala Transport Service and Kerala Transport Subordinate Service, Special Rules were originally, framed under the proviso to Article 309 of the Constitution and subsequently, after the promulgation of the Kerala Public Services Act of 1968 (Act 19 of 1968) which came into existence as a result of Article 309, Special Rules were framed. These Special Rules were in force on the date of promulgation of the new Act. Under the Kerala Transport Service Special Rules, the service consisted of five categories of officers. Motor Vehicles Inspector is category No. 5, Joint Regional Transport Officer/Personal Assistants to Deputy Transport Commissioner/Assistant Secretary, State Transport Authority constituted catcgoiy No. 4, "Assistant Transport Commissioner/Regional Transport Officer constituted category No. 3, Senior Deputy Transport Commissioner and Deputy Transport Commissioners constituted category Nos. 1 and 2. Under Rule 3, the method of appointment was prescribed. For categories 1 and 2, method of appointment is only by promotion from the lower category. For category No. 3, viz., Regional Transport Officer, the method of appointment is by promotion from Joint Regional Transport Officer and equivalent post and by transfer from Senior Accounts Officer of the Motor Vehicles Department under the Kerala General Service. The ratio prescribed for recruitment by transfer and promotion to category No. 3 is 1:4; in a circle of 5, the first post will go to a transfree. The rest of the 4 posts will go to promotees. For category No. 4, the Joint Regional Transport Officer, the method of appointment is by promotion from Motor Vehicle Inspectors (category No. 5) and by transfer from Senior Superintendents/Junior Accounts Officers of the Motor Vehicles Department. The ratio fixed for promotion and recruitment by transfer is 2:1. The proviso stipulated that if no suitable candidate is available in any one of the feeder categories to maintain the ratio of 2:1, then appointment shall be made from suitable candidates in the other feeder category. The second proviso provided for the deficiency, if any, in the ratio being made good by adjusting against future promotion or recruitment by transfer. For category No. 5, the Motor Vehicles Inspectors, the method of appointment is by transfer from among the Assistant Motor Vehicles Inspectors in the Kerala State Transport Subordinate Service or in the absence of suitable candidates for appointment, appointment by direct recruitment. Rule 4 prescribed qualifications for appointment as Motor Vehicles Inspector by direct recruitment. It stipulated that he should pass S.S.L.C. or equivalent examination pass Diploma in Automobile Engineering after a course of three years duration and he should have the motor driving licence. The desirable qualification is heavy duty vehicle driving endorsement.

20. Under the Kerala Transport Subordinate Service Rules, there is only one category, viz., Assistant Motor Vehicles Inspector. The method of appointment is by direct recruitment and by trausfer. A perusal of Rule 4 clearly indicates that the same qualifications are prescribed for direct recruitment as well as for recruitment by transfer from the ministerial service of the Mcitor Vehicles Department. The ratio prescribed for appointment by transfer and direct recruitment is 1:4. Note 1 to Rule

2 stipulates that the ratio is applicable on the basis of the total cadre. strength of the Assistant Motor Vehicles Inspectors in the Department and if sufficient number of qualified candidates is not available for recruitment by transfer, the vacancies left unfilled shall also be filled up by direct recruitment. Note 2 to Rule 2 provided for a person appointed as Assistant Motor Vehicles Inspector by transfer shall relinquish his right for reversion to the ministerial service. One significant fact that should be noted in this context is that no service rules were framed regarding the Motor Vehicles Transport Department Officers u/s 133A, though that section gave power to the State Government to make Rules.

21. Comprehensive Rules, Kerala Motor Vehicles Rules, 1989 were framed in S.R.O. No. 1286/89 and it is clearly indicated that these Rules were framed under various Sections of the new Act including Section 213 ot the M.V. Act which provided for establishment of the Motor Vehicles Department of the State. Rules 405 and 406 are traceable to statutory power u/s 313 of the new Act. Section 213 corresponds to Section 133A of the old Act. Sub-section (4) of Section 213 is an entirely new provision. A careful reading of Section 213 indicates the following: Under Sub-section (1), the State Government may establish a Motor Vehicles Department and appoint officers thereof for carrying into the effect the provisions of the Act. Such officers who are appointed will be public servants as per the Indian Penal Code. The State Government may make Rules to regulate the discharge by officers of the Motor Vehicles Department of their functions. Under Sub-section (5), in addition to the powers that may be conferred on any officer of the Motor Vehicles Department under Sub-section (3), such officer as may be empowered by the State Government to do various other duties enumerated in Sub-section (5). Sub-section (4) which is a new provision reserved to the Central Government the right to prescribe the minimum qualifications which the officers or any class thereof shall possess for being appointed as such. Sub-section (4) makes it clear that the Central Government reserved only the power to prescribe the minimum qualifications and it also reserved to the Central Government the power to prescribe the qualifications for any class of officers. In exercise of this power u/s 213(4) Ext. P-4 notification was issued on 12th June, 1989 as S.O. 443 (E). A careful reading of this notification clearly indicates that the Central Government prescribed the minimum qualifications for the class of officers consisting of the category of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called). The qualifications prescribed under this notification are almost identical to the qualifications prescribed for the post of Assistant Motor Vehicles Inspector under the Kerala State Transport Subordinate Service and the qualifications prescribed for direct recruitment of Motor Vehicles Inspectors, category No. 5 under the Kerala State Transport Service. If we read Rule 405 of the Kerala Motor Vehicles Rules, 1989 together with the notification issued urider Section 213(4), we find that Ext. P-4 notification can and should and ought to cover only the categories of Motor Vehicles Inspectors and Assistant Motor Vehicles Inspectors in the State of Kerala.

22. There is a lot of significance attached to the words for the class of officers consisting of the category of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called). The phrase "Inspector of Motor Vehicles" has been considered by the learned Single Judge as referring to a group of officers, who satisfy the definition of Inspector of Motor Vehicles under Rule 2(i) of the Kerala Motor Vehicles Rules, 1989. A reading of the definition under Rule 2 indicates that the "Inspector of Motor Vehicles" is separately defined as an inclusive definition to covef various officers and various authorities, viz., Registering Authority, Additional Registering Authority and any other Officer appointed by the Government to perform the function of Inspector of Motor Vehicles under these Rules. It is significant to remember that the various categories enumerated in Rule 405 have been separately defined under Rule 2. For instance, (e), (j), (m) and (s) defined the categories of Deputy Commissioner, Joint Regional Transport Officer, Motor Vehicles Inspector and Regional Transport Officer. Under (zb) "Transport Commissioner" who is the head of the Department of the Motor Vehicles Department of the State is also defined.

23. In this litigation which has given rise to these writ appeals, an effort is made to play upon the words "Inspector of Motor Vehicles" and thereby include the various other categories of officers who are enjoined under the Rules to perform duties as Registering Authority, Additional Registering Authority and Licensing Authority and Additional Licensing Authority, etc. The crux of the question is whether Ext. P-4 prescribes qualifications for the post of Motor Vehicles Inspector, viz, category No. 5 under the State Transport Service Rules and the category of Assistant Motor Vehicles Inspector, viz. the only category under the State Transport Subordinate Service or whether it encompasses the highest posts of Joint Regional Transport Officer and the Regional Transport Officer in the State of Kerala. It should be remembered that the scheme of the M.V. Act contemplates different functions being performed by different officials with regard to different chapters under the Act. The Motor Vehicles Act does not define "Inspector of Motor Vehicles", though it defines Licensing Authority and Registering Authority, u/s 2(20) and Section 2(37). The wording of this definition is very significant. It only contemplates the authority which is empowered to issue licenses under Chapter II or Chapter III" and the authority which is empowered to register motor vehicles under Chapter IV. The Act does not also define the post of Regional Transport Officer or for that matter any of the posts that are to be filled u/s 213. Obviously, the Act contemplated the State Government establishing a Motor Vehicles Department and gave it the full liberty to appoint such officers as it deems necessary for carrying out the functions and purposes under the Act. Chapter II deals with licence of drivers of motor vehicles Chapter III deals with the registration of motor vehicles. The Kerala Motor Vehicles Rules follow the scheme of the Act and under various chapters of the Rules, various functions are provided for.

24. A close scrutiny of the judgment in O.P. No. 8345 of 1991 indicates that the learned Single Judge did not have in mind the general scheme and purposes of the Act and the general scheme of the Rules framed under Act. The court was more carried away by the definition in Rule 2(i) of the Kerala Motor Vehicles Rules of 1989 forgetting the fact that while the other sub-rules give specific definitions for the posts of Joint Regional Transport Officer, Regional Transport Officer and Motor Vehicles Inspector, it failed to draw a distinction between these definitions of the posts which relate to different and distinct categories mentioned under Rule 405 and it failed to notice the significant fact that the definition under Rule 2(i) of the phrase "Inspector of Motor Vehicles" is that of a group and a class of officers who performed certain functions and that it is not a definition of a specific category of officers mentioned in Rule 405. While dealing with the individual rules like Rules 96 and 103, the Court did not look into the fact that the Regional Transport Officer and Joint Regional Transport Officer are entitled to take the assistance of technically qualified Motor Vehicle Inspectors for performing their jobs. In fact, there are statutory indications to show that the Act and the Rules contemplated non-technically qualified people holding the superior posts. For instance, Ext. P-4 itself clearly mentions in the second paragraph that nothing contained in first paragraph in the notification would apply to an officer appointed to such post before the first day of July, 1989 and to an officer appointed to discharge functions of a non-techincal nature. The amending . notification dated 29th April 1991 also indicates that people who are appointed and whose names were being considered for appointment for posts to discharge functions of non-technical nature are outside the ambit of the notification. A further indication is given by the Central Government bringing into existence the new Act by reason of amending Act 54 of 1994. The amending Act was brought into force with effect from 14th November 1994. By virtue of this, a proviso is added to Section 54 and that proviso reads as follows:

Provided that no such cancellation shill be mide by the prescribed authority unless such prescribed authority holds such technical qualification as may be prescribed or where the prescribed authority does not hold such technical qualifiction on the b isis of the report of an Oificer having such qualificitions.

This is a clear indication that the Act contemplated superior officers like Joint Regional Transport Officer, Regional Transport Officer and Deputy Commissioner acting on the basis of the reports of the Inspectors of Motor Vehicles who are technically qualified and the superior officers taking the assistance and help of the duly qualified Inspectors for performing some of their statutory functions.

25. It should also be remembered that under the Kerala Motor Vehicles Manual, the duties, functions and powers of the officers of the Motor Vehicles Department are indicated. Paragraph 178 at page 103 of Vol. II of the Manual deals with Powers of officers. Paragraph 179 deals with functions and duties of officers. It clearly indicates that the functions and duties of the various officers are laid down in the

provisions contained in the Acts and Rules and the directions issued by the Transport Commissioner from time to time. Then it refers to Appendix 18 which indicates the statutory powers exercisable by the various officers. The officers are classified into officers in the district, viz., Regional Transport Officers assisted by Joint Regional Transport Officers, Motor Vehicles and Assistant Motor Vehicles Inspectors Officers at the Headquarters are Secretary, State Transport Authority and Secretary, Transport Commissioner''s Office. Controlling Officers are Transport Commissioner assisted by the Joint Transport Commissioner and Deputy Commissioners. It further explains the nature of duties for each group of officers. The Regional Transport Officer is responsible for administration and enforcement of the provisions of the Acts and Rules. He is assisted by a Joint Regional Transport Officer, a Motor Vehicles Inspector and Assistant Motor Vehicles Inspectors. The Assistant Motor Vehicles Inspector is an officer to do the field work and his functions and powers are indicated in pages 105 to 109. Motor Vehicles Inspector''s duties are '' indicated at page 108. He has to attend the office work to assist the Regional Transport Officer and also attend to certain field work without detriment to the work in the office. All the instructions relating of the field work by Assistant Motor Vehicles Inspectors will apply to Motor Vehicles Inspector also. He has also to co-ordinate the Work of the Assistant Motor Vehicles Inspectors.

26. At page 109, paragraph 3 of the Manual deals with Joint Regional Transport Officer and it is clear from this paragraph that the Joint Regional Transport Officer shall concentrate on the work in the office and shall move out for field work only when the Regional Transport Officer is available in office. He shall do the field work as far as possible in association with the concerned Circle Officers, viz., A.M.V.I. In paragraph 4 the duties and functions of the Regional Transport Officer are indicated. He is the head of the Regional Transport Office and he is a Licensing Authority, Registering Authority and Secretary of the Regional Transport Authority. He is also called upon to devote adequate attention for doing field work and assess the effectiveness of the field work done by the Inspectors and subordinates. He shall organise special checks of vehicles by constituting tpams of Motor Vehicles Inspectors. A perusal of these duties and functions clearly indicates that the brunt of the field duties and actual checking of a technical character will have to be borne by the Inspectors who are technically qualified and the supervision, administration and statutory duties of registering, licensing, etc. are to be discharged by the Joint Regional Transport Officer and Regional Transport Officer. If we see the definition given under Rule 2(i) of the Kerala Motor Vehicles Rules for the term "Inspector of Motor Vehicles", we find that it is essentially a definition for a group of functionaries who have to mostly perform the administrative duties and occasionally certain technical duties. It is not a definition of a category of officers of the Motor Vehicles Department of the State. The significance of separate definition of the posts of Motor Vehicles Inspector and Assistant Motor Vehicles Inspector under the Rules, clearly shows that the latter two definitions defined category of Motor Vehicles

Inspector and Assistant Motor Vehicles Inspector who may losely be referred to as Inspectors of Motor Vehicle''s. The very fact that the Regional Transport Officer and Joint Regional Transport Officer are also separately defined under Rule 2(j) and (s) clearly indicates that for the purpose of definition, they are not covered by the definition of Inspector of Motor Vehicles ip Rule 2(i), though they come within the ambit of the various authorities covered by that definition. It is not as if the Central Government is not aware of the existence of the post of Regional Transport Officer. Rule 63 of the Central Rules specifically refers to Regional Transport Officer of the Motor Vehicles Department in the explanation to Sub-rule (2). Similarly Rule 24 explanation to Sub-rule (2) uses the words "Officer not below the rank of Regional Transport Officer of the Motor Vehicles Department established u/s 213". In spite of the Central Government being fully aware of the existence of the post of Regional Transport Officer, it has not chosen to prescribe any minimum qualifications for the post of Regional Transport Officer under Ext. P-4.

27. In the impugned Judgment, the learned Single, Judge in paragraph 22 at page 43 gave a direction to the State Government to proceed with the proposed amendment to the Special Rules as expeditiously as possible. The direction portion of paragraph 22 reads as follows: Ext. P-8 in O.P. No. 8345/91 stands quashed. There will be a further direction to the State Government to proceed with the proposed amendment to the Special Rules as expeditiously as possible. Appellants contend that this direction to State Government is uncalled for, totally unwarranted and that, it is an illegal direction. It should be remembered that the power of making or framing Rules is of the legislative character. Courts are not entitled to give directions to the State Government or the Executive to make any particular legislation or pass any subordinate legislation by way of making Rules etc. This is well established by a number of decisions. AIR 1990 S. C. 334 Supreme Court Employees Welfare Association v. Union of India in paragraph 51 at page 353 lays down the law as follows:

There can be no doubt that no court can direct a legislature to enact a particular law. Similarly, when an executive authority exercises a legislative power by way of subordinate legislation pursuant to the delegated authority of a legislature, such executive authority cannot be asked to enact a law which it has been empowered to do under the delegated legislative authority.

In Mallikarjuna Rao and Others Vs. State of Andhra Pradesh and Others, observed in paragraph 10 at page 1255 as follows:

It is neither legal nor proper for the High Courts or the Administrative Tribunals to issue directions or advisory sermons to the executive in respect of the sphere which is exclusively within the domain of the executive under the Constitution. Imagine the executive advising the judiciary in respect of its power of judicial review under the Constitution. We are bound to react scowlingly to any such advice.

The court further remarked in paragraph 12 as follows:

The High Courts or the Administrative Tribunals cannot issue a mandate to the State Government to legislate under Article 309 of the Constitution. The Courts cannot usurp the functions assigned to the executive under the Constitution and cannot even indirectly require the executive to exercise its rule making power in any manner. The Courts cannot assume to itself a supervisory role over the rule making power of the executive under Article 309 of the Constitution.

State of Jammu and Kashmir Vs. A.R. Zakki and others, is a decision of three Judges of the Supreme Court and in paragraph 10 the court observed as follows:

This power to frame rule is legislative in nature. A writ of mandamus cannot, therefore, be issued directing the State Government to make the rules in accordance with the proposal made by the High Court.

The court quoted with the approval the dictum laid down on this aspect in Supreme Court Employees'' Welfare Association and Others Vs. Union of India (UOI) and Another, (Supreme Court Employees Welfare Association v. Union of India). In view of this weighty and authoritative pronouncement, we find that the direction given by the learned Single Judge to the State Government to proceed with the amendment of the Rules expeditiously is an uncalled for and unwarranted direction. It is illegal and beyond the jurisdiction of the High Court.

28. In, the forgoing pages of the judgment, we have set out a complete conspectus of the Act and the necessary Rules and the historical development. We have to judge what exactly is the effect of Ext. P-4 notification which was issued on 12th June 1989, u/s 213(4). We have also to consider the effect of the notification as amended on 29th April 1991. It should be remembered that u/s 213 while the power to establish the Motor Vehicles Department and appointing officers in the Department and regulate the discharge of their duties is given to the State Government, the Central Government reserved to itself only the power, of prescribing the minimum qualifications which the said officers or any class thereof shah possess for being appointed as such. What is retained by the Central Government is a very very limited power of prescribing the minimum qualifications. If the Central Government thought fit to prescribe qualifications for the posts of Regional Transport Officers and Joint Regional Transport Officers, it has perfect liberty to do so. But it has not chosen to do so. Ext. P-4 notification shows that only for the posts of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles, the Central Government had chosen to prescribe the minimum qualifications. These qualifications are almost identical and in consonance with the qualifications prescribed by the State Government earlier for appointment to the posts of A.M.V.I. and M.V.I. It should be remembered that even for appointments by transfer from ministerial service to the posts of A.M.V.I. candidates are expected to have the same technical qualifications which are prescribed for the direct recruitments. A closer scrutiny of Ext. P-4 clearly

shows that the notification excluded from its purview officers appointed to such posts before 1st day of July, 1989 and officers appointed to discharge functions of a non-technical nature. This is further clarified by the amendment issued on 29th April 1991 by virtue of Clause 2 of S.R.O. 381 (E), dated 29th April 1991. Clause 2 clearly states that the notification shall not apply to persons whose names were under consideration for appointment to the posts of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called) by the State Government prior to 1st day of July 1989 or to an officer appointed to such post before the 1st day of July 1989 or to an officer appointed to discharge functions of a nontechnical nature. There is absolutely no indication in Ext. P-4 even after its amendment to indicate that it would apply to any posts other than that of Motor Vehicles Inspector and Assistant Motor Vehicles Inspector. We have earlier indicated that the "Inspector of Motor Vehicles" is not one of category of posts under Rule 405 and that the definition under Rule 2(i) of the Kerala Motor Vehicles Rules refers to a group of officers and authorities who discharge certain functions under the scheme of the Act and the Rules. It is a distinct group apart from the named categories in Rule 405. The learned Single Judge is riot justified in construing the definition of Inspector of Motor Vehicles in Rule 2(i) as encompassing the post of Joint Regional Transport Officer and Regional Transport Officer.

29. The learned Single Judge seems to give a lot of importance to the stand taken by the Government in the counter filed in O.P. No. 10732 of 1992 on 28th July 1993. The learned Judge failed to consider the earlier stand of the State Government as revealed by Ext. P-8. In Ext. P-8, the State Government while considering the representations of the writ Petitioners association, clearly indicated that there are no grounds to amend the method of appointment to the'' posts of Joint Regional Transport Officers and it referred to the judgment in O.P. No. 5612 of 1981 earlier filed by the Association and the various observations made in that judgment. It has clearly indicated that the words Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called) in the notification refer only to the Motor Vehicles Inspector and Assistant Motor Vehicles Inspector in Kerala State and that they do not cover the posts of Regional Transport Officer and Joint Regional Transport Officer. It also referred to various Rules and different notifications and indicated that Inspector of Motor Vehicles referred to in the notification gives scope for ambiguity, because of the different designation in different States and under the Kerala Motor Vehicles Rules only in Rule 116 the words "Inspector of Motor Vehicles" have been used. The words "Inspector of Motor Vehicles" defined under Rule 2(i) of the Kerala Rules does not find a place in the Central Act and it is not defined in the Central Rules and hence the two representations, Exts. P-4 and P-7 were rejected as the notification issued u/s 213 does not cover Joint Regional Transport Officers ana Regional Transport Officers. There is no doubt about the fact that between the date of Ext. P-8, viz., 24th June 1991 and the date of filing the counter, viz., 23rd July, 1993 there appears to be some change in the Government''s attitude. In fact, in the

cotinter it is specifically stated that the Government have since decided to prescribe technical qualifications as a must for the officers above the rank of Joint Regional Transport Officer and that it initiated action to amend Special Rules. The fact remains that till this day, 24th November 1994, the Rules have not been amended. As clearly stated in the counter itself, the prevalent law has to be applied and appointments and promotions have to be made in accordance with the Special Rules now prevalent and in force. The note file regarding the proposal to amend the Rules was shown to the Court and our scrutiny of the file indicated that only the Hon''ble Minister took the view that the Rules should be amended, so as to prescribe technical qualifications for the posts of Regional Transport Officer and Joint Regional Transport Officer. The file clearly indicates that the Department took the view which is consistent with the stand taken by it in Ext. P-8 order which is strictly in conformity with the existing Special Rules and the observations of this Court in O.P. No. 5612 of 1981. Obviously, the Hon''ble Minister appears to have taken a view Which is not supported by the departmental head and the various other officers. Though as per the sugigestion of the Minister some draft Rules were prepared, till they are scrutinised by the Law Department and till they are approved by the Subordinate Legislation Committee of the Legislature, they cannot be brought into force. Any how, in this particular batch of writ appeals, we are not concerned with what will happen as and when the Rules are amended. It is a matter that will have to be considered by the State Executive.

30. In this context, it would be pertinent to refer to the judgment of this Court rendered in O.P. No, 5612 of 1981, on 28th May 1982. A copy of that judgment is available as Annexure II in W.A. No. 1170 of 1994. It is a judgment rendered in a writ petition filed by the Kerala Assistant Motor Vehicles Inspectors Association and one Assistant Motor Vehicles Inspector. The learned Single Judge Shri Justice U.L Bhatt, (as he then was) exhaustively considered the matter with reference to the Act and the Rules and the Special Rules in force in the State of Kerala and found that for discharging the various duties enjoined on the Joint Regional Transport Officer and Regional Transport Officer they do not require technical knowledge of any sort and they exercise mostly administrative functions and whenever they are expected to do some inspections of vehicles involved in an accident, etc., they are certainly entitled to take the assistance of A.M.V.I. and M.V.I, and the technical duties are mostly performed by the Assistant Motor Vehicles Inspectors and Motor Vehicles Inspectors. The learned Judge also pointed out the historical perspective of these posts and pointed out that even prior to 1956 when Kerala State came into existence, the posts of Regional Transport Officers are purely administrative posts and the public interest or safety have not suffered by persons without technical qualifications holding that posts. The learned Judge also found that the scheme of inducting personnel from the general service into the transport service has stood the test of time and the absence of prescription of technical qualifications for the higher posts cannot be regarded as bad in law. It is this judgment that has been

exhaustively considered while passing Ext. P-8 order.

31. Another interesting fact revealed from the record is that on 11th June 1991 the Transport Commissioner who is the head of the Motor Vehicles Department of Kerala addressed an elaborate report to the Secretary to Government regarding the effect of promulgation of Section 213 and the notification u/s 213(4). That report is available as Annexure III in W.A. No. 1170/94. A reading of that document clearly indicates that after an exhaustive consideration of the rule position, the Transport Commissioner suggested to the Government that the notification prescribing the minimum qualifications for the post of "Inspector of Motor Vehicles" would only apply to Motor Vehicles Inspectors and Assistant Motor Vehicles Inspectors in Kerala State. Nowhere in the Act or Rules or in the State notification, qualifications of other officers of the Department have been prescribed by the Central Government. He farther mentioned that even after the issuance of Central notification Ext. P-4 for the posts of Joint Regional Transport Officer, Regional Transport Officer, etc. the State Government is competent to prescribe the qualifications and method of appointment in exercise of its powers under the Kerala Public Services Act of 1968. In fact, to remove the ambiguity created by the use of the words "Inspector of Motor Vehicles" in Rule 2(i) of the Kerala Motor Vehicles Rules, he suggested an amendment to remove that ambiguity.

32. In view of the above background, we are unable to appreciate the view of the learned Single Judge to the effect that the words "Inspector of Motor Vehicles" defined under Rule 2(i) of the Kerala Motor Vehicles Rules cover Joint Regional, Transport Officer and Regional Transport Officer and Ext. P-4: notification would apply to those categories of posts also.

33. A perusal of Section 217 of the new Act which deals with repeal and savings shows that the old Act 1939 and the corresponding law in any State immediately before 1st July 1989 are repealed and that notwithstanding the repeal under Sub-section (1) any notification, rule, regulation, order or notice issued or any appointment made or exemption granted under the old Act and the Rules will continue to be in force till the new Rules are framed under the new Act. If the existing Rules are in consistent with theprovisions of the new Act, then alone they will become inoperative. Though the State Government is given power to frame Rules for appointing officers and prescribing their service conditions, etc. u/s 213(1) and (3), the State of Kerala has chosen to continue the previous Rules framed under Public Services Act of 1968. It has not exercised its powers u/s 213(1) and (3) to frame fresh Rules. It is interesting to see that the repealing provision does not in any way effect the Special Rules framed for the Kerala Transport Service and Kerala Transport Subordinate Service. If, we examine, the contents of Ext. P-4 in the background of the Special Rules for the Kerala Transport Service and Kerala Transport Subordinate Service, we find that there is absolutely no conflict. What was prescribed in the State of Kerala as technical qualifications long long ago is now

prescribed under Ext. P-4, for the category of Motor Vehicles Inspector and Assistant Motor Vehicles Inspector. There is nothing in Ext. P-4 to indicate that it applies to the posts of Joint Regional Transport Officer and Regional Transport Officer in the State of Kerala. It is also significant to remember that Ext. P-4 notification does not supersede any of the earlier notifications or rules. There is no possibility for its superseding any earlier rules, because under the earlier Act of 1939, the Central Government had no right to prescribe the minimum qualifications for the Officers of the State Motor Vehicles Department. On a careful examination, we find that there is absolutely no conflict between Ext. P-4 and the'' provisions of the State Special Rules.

34. Assuming for a moment that there is some divergence between Ext. P-4 and the Kerala State Transport Service Rules and the Kerala State Subordinate Service Rules, even then both of them are reconcilable and they can co-exist supplementing each other. Only when there is a direct conflict or inconsistency perhaps the State Rules may have toyield place to the Central Rules. On this particular aspect, it is argued by the learned Counsel that even if there is any conflict the Rules framed under the power derived under Article 309 of the Constitution would prevail over Ext. P-4 which is a mere notification under the Central enactment.

35. S. Satyapal Reddy and Others Vs. Govt. of A.P. and Others, which is the latest decision is perhaps the only decision dealing with Ext. P-4 notification issued under Scction 213. It lays down the correct position of law. That decision was dealing with a situation where after the Central Government prescribed the qualifications under Ext. P-4 in exercise of the powers u/s 213(4) the State Government prescribed higher qualifications for the posts of A.M.V.I. and M.V.I. In such a situation, the Supreme Court observed in paragraph 4 at page 394 as follows:

Shri V.R. Reddy, learned additional Solicitor General argued that Sub-section (1) of Section 213 of the Act preserves the power to the State Government to appoint an officer or class of officers to implement the Act, Sub-section (4) gives power to the Central Government to prescribe "the minimum qualifications" for appointment as officers or class of officers to Such posts under the Act and that would not mean that the State Government having been given the power to appoint the officers, are denuded of their power to prescribe higher qualifications than the one prescribed by the Central Government. There is no conflict between the power exercised by the Central Government under the Act vis-a-vis the power of the State Government under Entry 41 of list II of the public service and power preserved to the Governor exercisable under proviso to Article 309 of the Constitution. Therefore, the State rules are not ultra vires.

Supreme Court accepted this contention and observed in paragraph 7 as follows:

Therefore, Sub-section (1) of Section 213 gives power to the State Government to create Transport Department and to appoint officers, as it thinks fit.... The Governor

has been given power under proviso to Article 309 of the Constitution, subject to any law made by the State Legislature, to make rules regulating the recruitment which includes prescription of qualifications for appointment to an office or post under the State. Sinoe the Transport Department under the Act is constituted by the State Government and the officers appointed to those posts belong to the State service, while appointing its own officers, the State Government as a necessary adjunct is entitled to prescribe qualifications for recruitment or conditions of service. But while so prescribing, the State Government may accept the qualifications or prescribe higher qualification but in no case prescribe any qualification less than the qualifications prseribed by the Central Government under Sub-section (4) of Section 213 of the Act. In the latter event i.e., prescribing lesser qualifications, both the rules cannot operate without colliding with each other. When the rules made by the Central Government u/s 213(4) and the statutory rules made under proviso to Article 309 of the Constitution are construed harmoniously, there Is no incompatibility or inconsistency in the operation of both the rules to appoint fit persons to the posts or class of officers of the State Government vis-a-vis the qualifications prescribed by the Central Government under Sub-section (4) pf Section 213 of the Act.

36. In that view of the matter, the Court upheld the statutory rules made by the State Government.

37. B.S. Vadera Vs. Union of India (UOI) and Others, is a case dealing with the rules framed by the President for the railway employees, in paragraph 24 at page 124, the court pointed out that in the absence of an Act passed by the appropriate legislature, rules framed under Proviso to Article 309 of the Constitution will have effect and they will have to be enforced unless they can be impeached on grounds such as breach of Part III, or any other Constitutional provision. It also pointed out in paragraph 26 that a notification issued cannot be said to be a rule regulating the recruitment and conditions of service of persons appointed to the services and that the railway board which is authorised to frame rules under the Act is certainly entitled to frame rules. The argument to strike down the rules made by the board was repelled in that case.

38. Ram Chandra Mawa Lal, Varanasi and Others Vs. State of Uttar Pradesh and Others, is a case where the Government of India fixed the price of fertiliser under the Essential Commodities Act and the State Government fixed the price under the powers derived under the Defence of India Rules. Dealing with the question whether there is any conflict between the two the majority decision has indicated in paragraph 44:

The fact that ''fertilisers'' have been declared as an essential commodity and its price can be regulated under the powers conferred by the Act, is altogether immaterial. There is no constitutional or jurisprudential limitation on the competence of the Parliament to create two avenues or sources of power for the regulation of prices of articles. There is nothing in principle or precedent to support the proposition that

two avenues or sources of power cannot be validly created.... Parliament can constitutionally and validly enact two statutes creating two sources of power, and since under both the statutes prices of fertilisers can be regulated there is no illegality in acting under ''either'' or ''both''.

In paragraphs 48, 49 and 51 the court discussed the question of what is meant by harmonious interpretation and then finally observed at page 1857 as follows:

One of the tests for ascertaining whether the inconsistency is an irreconcilable or intolerable one, is to pose this questions:Can the State law be obeyed or respected without flouting or violating the Central law in letter and spirit? If the answer is in the affirmative, the State law cannot be invalidated. Not at any rate when the State law merely ''Promotes the real object of both the laws, and is in the real sense ''supplementary'' or ''complimentary'' to the Central law. In the present case the test answers in favour of the validity of the imougned State notification. The Central notification is not violated if the dealers sell the fertilizers from out of the existing stocks acquired at the lower rates, for both the notification fix the maximum selling price and the maximum Veiling price fixed "under the State" notification is not" higher than that fixed under the Central notification.

The principle aptly applies to the facts of our case. The qualifications prescribed for the posts of Inspector of Motor Vehicle and Assistant Inspector of Motor Vehicle in the State Special Rules can be obeyed and followed without violating the qualifications prescribed under Ext. P-4. There is no inconsistency.

39. Judged in the light of these decisions, we find that there is absolutely no conflict between the Kerala State Transport Service Rules and the Kerala State Transport Subordinate Service Rules and Ext. P-4 notification. Both of them are complimentary to one another. They are reconcilable and they can co-exist. We hold that Ext. P-4 notification has not superseded the State Special Rules. We hold that Ext. P-4 notification as amended on 29th April 1991 does not apply to the posts of Joint Regional Transport Officer and Regional Transport Officer in the State of Kerala. We hold that the Kerala State Transport Service Rules and the Kerala State Transport Subordinate Service Rules continue to be valid and operative after 1st July 1989. We hold points 1 to 4 in favour of the Appellants.

Point No. 5:

40. Ext. P-8 which has been passed by the State Government on 24th June 1991 as per the directions given in Ext. P-1 judgment dated 14th March 1991 m, O.P. No. 2169 of 1991 which was disposed of at the stage of admission fully complies with the directions given in O.P. No. 2169 of 1991. In this context, a scrutiny of the Judgment, Ext. P-1, is called for. The learned Single Judge dealt with the matter at the stage of admission on 28th February 1991 and learned Judge wanted to know when the Association was registered and what is its registration number. Subsequently, as the office bearers who were pursuing the writ petition were not

able to produce the necessary details, the learned Judge dealt with Ext. P-4 notification dated 12th June 1989 and made a passing observation to the effect that the argument is well founded. The High Court did not decide whether the notification dated 12th June 1989 would apply to the posts of Joint Regional Transport Officer and Regional Transport Officer. High Court only gave the following directions to the State Government:

In view of what has been stated above, I direct the first Respondent to pass final order on Exts. P-4 and P-7 representations in accordance with law and in the light of the observations made earlier in this judgment, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Before passing final orders, an opportunity must be afforded to Petitioner to Represent his case in person.

Accordingly, the matter was elaborately considered, a personal hearing was given to the Association on 18th June 1991 and then the matter was thoroughly examined in the light of the observations of the learned Judge and a well reasoned elaborate speaking order was passed after a thorough discussion of the various observations in the judgment in O.P. No. 5612 of 1981, dated 28th May 1982, and the change in position after the promulgation of the new Act and the new Rules and then Ext. P-4 and Ext. P-7 representations were rejected. Going through Ext. P-8 and the directions in Ext. P-1 judgment, we do not find any infirmity in Ext. P-8 order dated 24th June 1991. Ext. P-8 is not liable to be quashed. In our considered opinion, a wrong legal approach made by the learned Single Judge is responsible for the conclusions arrived at in the impugned judgment. We hold on point No. 5 that Ext. P-8 order dated 24th June 1991 is not liable to be quashed.

41. In the result, W.A. No. 1099 of 1994 is allowed and the judgment in O.P. No. 8345/91 is set aside. Consequently, O.P. No. 8545/91 stands dismissed. W.A. No. 1100/94 and W.A No. 1276/92 stand allowed. Consequently, the judgment in O.P. No. 10732/92 is set aside and consequently O.P. No; 10732 of 1992 stands dismissed. As a consequence of W.A. No. 1276/92 being allowed, the judgment of dismissal in O.P. No. 2169/91 is set aside and the O.P. stands allowed. W.A. No. 1103/94 stands allowed and the judgment in O.P. No. 10773/92 is set aside. Consequently the O.P. stands dismissed. W.A. No. 1227/94 and W.A. No. 1257/94''which are filed by persons who have been granted leave to appeal stand allowed and the judgment in O.P. No. 8345/91 is hereby set aside and the original petition shall stand dismissed. W.A. No. 1105/94 is allowed. Consequently, the judgment in O.P. No. 8345/91 is set aside and the original petition stands dismissed. W.A. No. 1226/94 which is filed by persons who are granted leave by this Court, stands allowed. O.P. No. 8345/91 stands dismissed. W.A. No. 1170/94 stands allowed. W.A. No. 1224/94 stands allowed. Consequently, O.P. No. 12103/91 stands dismissed. W.A. No. 1221/94 stands allowed. The judgment in O.P. No. 8345/91 is hereby set aside. Consequently, O.P. No. 8345/91 stands dismissed. W.A. No.

1174/94 stands dismissed as these Appellants are only members in the rank list and the validity of the rank list has expried. W.A. No. 1111/94 is allowed and consequently the judgment in O.P. No. 8345/91 is set aside and the O.P. stands dismissed.

In all these appeals, the respective parties shall bear their own costs.

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