P. THAMPAN

v.

STATE OF KERALA AND ANR.

DECEMBER 16, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law—State of Kerala—Police—Recruitment to the post of Sub-Inspector—Government order No. G.O. Ms. No. 55/66/HOME dated 11th February, 1966—Eligibility conditions—Interpretation of—Appellant working as Reserved Police Constable—Appellant working not in regular line but in the Special Police Department—Appellant not considered for post of Sub-Inspector on the ground that he was already promoted as Sub-Inspector in the Armed Police holding the equivalent rank of Sub-Inspector—If the appellant seeks to come back to regular line of police Department on consideration and if he is found to be fit, he is entitled to be considered—It would be open to him to get selected in accordance with the procedure—Public Service Commission is, therefore, directed to consider his case according to Rules.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 16982 of 1996.

From the Judgment and Order dated 23.2.96 of the Kerala High Court in W.A. No. 13 of 1995.

P.S. Poti, Ms. Malini Poduval for the Appellant.

A.S. Nambiar and P.K. Manohar for the Respondent Nos. 2.

M.T. George for the Respondent No. 1

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the Division Bench of the Kerala High Court, made on February 23, 1996 in Writ Appeal No. 13 of 1995.

A The appellant was working as Reserved Police Constable. The Government notified recruitment to the post of Sub-Inspector from in-service candidate who were holding Graduation qualification and were within 30 years. The appellant had applied for the said post but was not considered on the ground that he was not working in Police Department but was working as Sub-Inspector in the Special Police Department. Unfortunately, his writ petition was clubbed with another writ petition wherein it was held that persons having already left the service of Police Department and serving elsewhere were not eligible to apply for the post of Sub-Inspector; though other cases were decided on merits, appellant's case was not considered on merits. Admittedly, he is working in the Police Department not in the regular line but in the Special Police Department. The Government Order No. G.O. MS. No. 55/66 Home. dated 11th February 1966 issued by Home DE (A) Department, Government of Kerala, Trivandrum indicates thus:

> "Having considered the recommendation of the Inspector General of Police in consultation with the Kerala Public Service Commission, the government now direct that all Graduates employed in the police Department, such as Clerks, Special Branch Assistants, Head Constables, and Police Constables and Officers of Corresponding rank, within the age of 30 yeas as on the first day of July of the year in which applications are invited, will be eligible to apply for the post of Sub-Inspectors of Police in future."

A reading of the above paragraph would clearly indicate that Graduates who were employed in the Police Department and were within the age limit of 30 years on the first day of July of the year were eligible to apply for the post of Sub-Inspector of the Public Department. The enumeration of various posts such as Clerk, Special Branch, Assistants, Head Constables and Police Constables and Offices of the corresponding rank would indicate that they are only illustrative and not exhaustive. Under these circumstances, all the eligible graduates within 30 years working in the Police Department in whatever branch, were eligible to be considered for the post of Sub-Inspector. Now, the stand for not considering his case taken by the Government is that he was already promoted as Sub-Inspector in the Armed Police holding the equivalent rank of Sub-Inspector. We find no force in the contention. If the appellant seeks to come back to regular line of Police Department on consideration and if he is

found to be fit, he is entitled to be considered. It would be open to him to get selected in accordance with the procedure. Under these circumstances, the disqualification now sought to be put is no impediment to consider his candidature. The Public Service Commission is, therefore, directed to consider his case according to Rules. A

The appeal is allowed. No costs. B

T.N.A. Appeal allowed.