

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 11344 of 2012 (P)

PETITIONER:

DEEPA V.R.,
MUNDAKKAL, KAROOKKAL HOUSE, EDANADU,
NELLIKUZHI P.O., KOTHAMANGALAM, ERNAKULAM
PIN 686 691.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. KUTTILANJI SERVICE CO-OPERATIVE BANK LTD. NO.E.292,
KUTTILANJI, KOTHAMANGALAM, ERNAKULAM,
PIN-REPRESENTED BY ITS SECRETARY.
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
ERNAKULAM, PIN 682 016.
3. M/S.RAMS,
3RD FLOOR, KALYAN CHAMBERS, CHITTOOR ROAD,
ERNAKULAM, PIN 682 016,
REPRESENTED BY ITS AUTHORIZED SIGNATORY.
4. BUSHARA NAZER,
PARAPPATT, NELLIKKUZHI, KOTHAMANGALAM,
ERNAKULAM, PIN 686 691.
5. C.M.NAZER
CHULLIKKADAN, KUTTILANJI, KOTHAMANGALAM,
PIN 686 691.
6. V.K.MANOJ,
VARYAMATTU, CHERUVATTOOR, KOTHAMANGALAM
PIN 686 691.

R1 BY ADV. SRI.M.M.MONAYE
R1 BY ADV. SRI.M.PAUL VARGHESE
R1 BY ADV. SMT.P.DARLY JOHN
R BY SRI. D. SOMASUNDARAM, SPL. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, ALONG WITH W.P.(C) NOS. 12383 & 12395 OF 2012,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1. TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED BY THE FIRST RESPONDENT DATED 3.5.2012 TO THE PETITIONER.

EXHIBIT-P2. TRUE PHOTOCOPY OF THE CIRCULAR 18/1991 DATED 7.6.91 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES.

EXHIBIT-P3. TRUE PHOTOCOPY OF THE LETTER ISSUED BY THIRD RESPONDENT TO THE PETITIONER DATED 25.4.2012.

EXHIBIT-P4. TRUE PHOTOCOPY OF THE NOTICE PUBLISHED BY CONVENER, SAHAKARANA SAMRAKSHANA SAMITHI DATED 6.5.2012.

EXHIBIT-P5. TRUE PHOTOCOPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DATED 6.5.2012.

EXHIBIT-P6. TRUE PHOTOCOPY OF THE ORDER ISSUED BY SECOND RESPONDENT DATED 9.5.2012.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) Nos. 11344, 12383 & 12395 of 2012

Dated this the 15th day of July, 2015.

COMMON JUDGMENT

Heard the learned counsel for the petitioners, the learned Government Pleader and the learned counsel for the respondent Society, apart from perusing the record.

2. As a result of what is said to be a due selection process in accordance with Ext.P1 circular, the second respondent Society appointed the petitioners in W.P.(C) No. 12383 of 2012 as Attender, Peon and Salesman respectively. In course of time, the said appointments made on 11.05.2012 were rescinded through Ext.P7 proceedings dated 25.05.2012 issued by the first respondent. Assailing Ext.P7 proceedings, inter alia, on the ground that they were issued without adhering to the procedural safeguards as laid down in Rule 176 of the Kerala Co-Operative Societies Rules, 1969 (for brevity 'the Rules'), the petitioners filed W.P.(C) No. 12383 of 2012. The second respondent Bank, the employer, has filed W.P.(C) No. 12395 of 2012, assailing the same proceedings.

3. The petitioner in W.P.(C) No. 11344 of 2012 has a grievance that she worked in the second respondent Bank from 18.10.2000 till 05.05.2012 on a temporary basis. Her services had been dispensed with from 06.05.2012. Contending that without putting the petitioner on notice, she had been removed from service by the second respondent, she has filed the present writ petition.

4. Since all the three writ petitions are concerning the issue of termination of the services of the employees without due process, they have been taken up together for consideration and being disposed of through a common judgment.

5. Insofar as the petitioners in W.P.(C) No. 12383 of 2012 are concerned, the learned Government Pleader has submitted that in terms of Rule 176 of the Rules, as interpreted by this Court in *Purushothaman v. Registrar* [1996(2) KLT 26 (DB)], the first respondent ought to have put them on notice, but it was not done.

6. Concerning the petitioner in W.P.(C) No. 11344 of 2012, there is an element of controversy with regard to her termination. The learned counsel for the petitioners in W.P.(C) No. 12383 of 2012 contends, in negation of the petitioner's claim in W.P.(C) No. 11344 of

2012, that she participated in the selection process held in 2012 and could not succeed. According to him, only under those circumstances had her services been dispensed with by the respondent Bank.

7. The learned counsel for the petitioner in W.P.(C) No. 11344 of 2012 has, however, contended that there should not have been summary dismissal of the petitioner without affording an opportunity of hearing. I am afraid, when it comes to the claim of the petitioner in W.P.(C) No. 11344 of 2012, if at all she had participated in the selection process and could not be selected, I do not think that the respondent Bank is obligated to put her on notice before terminating her from service. At any rate, if the respondent Bank is to consider her candidature for any future vacancy, given the fact that she had worked for more than a decade in the respondent Bank, it is entirely open for the respondent Bank to consider her case sympathetically, albeit within the parameters of the statute.

8. Insofar as the petitioners in W.P.(C) No. 12383 of 2012 are concerned, in the face of the admitted fact that Ext.P7 was issued in violation of the procedural safeguards contained in Rule 176 of the Rules as judicially interpreted by this Court in *Purushothaman v.*

Registrar [1996(2) KLT 26 (DB)] and also Poonjar Service Co-Operative Bank Ltd. v. State of Kerala [2004(1) KLT SN 40(50)], I cannot but hold that Ext.P7 cannot be sustained and is accordingly set aside. Consequently, both the writ petitions, W.P.(C) No. 12383 and 12395 of 2012, are hereby remanded to the first respondent to have a fresh adjudication on the issue of terminating the services of the petitioners. The hearing shall take place after putting the petitioners and the respondent Bank on notice.

9. The learned counsel for the petitioners has strenuously contended that once Ext.P7 is set aside, the status quo ante should prevail, and that the petitioners should automatically be reinstated in service. Appealing as the plea may be, I am of the considered opinion that the petitioners have been out of service for the past more than three years. At this juncture, letting them occupy the previous position straight away may lead to administrative inconvenience or confusion.

10. I, however, leave it open for the respondent Bank to re-admit them into service, provided there are clear vacancies, and further provided that their services are needed on an urgent basis.

At any rate, the first respondent shall consider the issue of legitimacy of the petitioner's appointment as expeditiously as possible and render a decision in that regard in not beyond two months.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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