

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 13069 of 2014 (G)

PETITIONER:

N.P. SYAM BABU,
SYAM BHAVAN, KANCHIYAAR P.O.,
IDUKKI DISTRICT.

(THE INITIALS "N.P" IN THE NAME OF THE PETITIONER IS DELETED IN
WP(C) AND IN THE AFFIDAVIT AS PER ORDER DATED 30-7-2014 IN IA
NO.9903/2014).

BY ADV. SMT.SHAMEENA SALAHUDHEEN

RESPONDENTS:

1. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM - 695 004.
2. STATE OF KERALA,
REPRESENTED BY IT SECRETARY
DEPARTMENT OFCO-OPERATION, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
3. THE IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
IDUKKI - 685 603.

R3 BY ADV. SRI.P.C.CHACKO, SC
R BY GOVERNMENT PLEADER
R BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P-1: TRUE COPY OF THE CERTIFICATE DATED 7.5.2014 ISSUED BY THE IDUKKI DISTRICT MOTOR EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.I.191, KATTAPPANA TO THE PETITIONER.

EXT.P-2: TRUE COPY OF THE S.S.L.C CERTIFICATE OF THE PETITIONER ISSUED BY THE EXAMINATION BOARD.

EXT.P-3: TRUE COPY OF THE CERTIFICATE OF JUNIOR DIPLOMA IN CO-OPERATION ISSUED BY THE STATE CO-OPERATIVE UNION, KERALA DATED 27.2.2012 TO THE PETITIONER.

EXT.P-4: TRUE COPY OF A RELEVANT EXTRACT OF THE NOTIFICATION PUBLISHED BY THE KERALA PUBLIC SERVICE COMMISSION IN MATHRUBHOOMI DAILY DATED 10.4.2014.

EXHIBIT P5: TRUE COPY OF THE ONLINE RECORDS.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 13069 of 2014 (G)

Dated this the 9th day of December, 2015.

JUDGMENT

The petitioner, an employee of the primary society affiliated to the third respondent District Co-operative Bank, applied in response to Ext.P4 notification for the post of Clerk/Cashier. When the respondent, the Kerala Public Service Commission, had not uploaded the petitioner's application, the petitioner has approached this Court.

2. The learned counsel for the petitioner has submitted that in terms of Rule 186 of the Kerala Co-operative Societies Rules ('the Rules' for brevity), the petitioner possessing SSLC and JDC is eligible for the post. She has also submitted that this Court in *Sathydevan v. Public Service Commission*¹ has held that, that being the basic qualification, no candidate under 50% inservice quota as contemplated in Rule 187 of the Rules shall be disqualified.

3. Per contra, the learned Standing Counsel for the Kerala Public Service Commission has submitted that initially a learned Division Bench of this Court in *Public Service Commission v.*

¹ 2008(1) KLT 289 (FB)

Ramesan ² has interpreted Rule 186 of the Rules and held that the minimum qualification is graduation plus HDC or JDC. He has further submitted that SSLC qualification has been confined to the posts having starting basic pay below ₹ 250. The learned Standing Counsel has further submitted that subsequently when the judgment of the learned Division Bench was taken in appeal before the Hon'ble Supreme Court, in Civil Appeal No. 6734 of 2003 it has refused to interfere. Accordingly, the learned Standing Counsel has urged this Court to dismiss the writ petition as the issue stands settled by the Hon'ble Supreme Court.

4. Heard the learned counsel for the petitioner, the learned counsel for the respondent Bank, and the learned Standing Counsel for the Kerala Public Service Commission, apart from perusing the record.

5. Indeed, the bone of contention is the qualification of an inservice candidate from primary societies affiliated to the Central Societies for the post of Clerk/Cashier. Rule 186 of the Rules does indicate that SSLC with HDC or JDC is the basic qualification.

² 2005(4) KLT 466

Nevertheless, a comprehensive reading of the provision further reveals that the qualification is meant for the posts with the starting pay below ₹ 250.

6. At any rate, the learned Division Bench of this Court in Ramesan has interpreted Rule 186 of the Rules and held that graduation is the minimum qualification. Based on the submissions of the learned Standing Counsel, I gather that the judgment of the learned Division Bench was subsequently doubted in another writ petition and the issue was referred to a learned Full Bench, which rendered a decision—2008(1) KLT 289 — to the effect that SSLC is the basic qualification along with an additional qualification of HDC or JDC.

7. The fact, nevertheless, remains that when the decision in Ramesan, through which a learned Division Bench of this Court held that graduation is the minimum requirement, was taken in appeal before the Hon'ble Supreme Court, it has conclusively held that graduation is the minimum qualification. It has further been brought to my notice that there is another SLP pending against the decision of the learned Full Bench in Sathydevan.

8. Comprehensively viewed, in the light of the definitive pronouncement of the Hon'ble Supreme Court in Civil Appeal No. 6734 of 2003, the subsequent appeal against the decision rendered by the learned Full Bench may be academic.

9. The conclusion being that the Hon'ble Supreme Court has held definitively that the graduation is the qualification required for the post of Clerk/Cashier, this Court is unable to approve the contention of the petitioner.

Accordingly, this writ petition is dismissed. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

