

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No.16771 of 2015 (V)

PETITIONER :

SELVA RANI.R.,
AGED 32 YEARS,
D/O. N.SELVARAJ, THADATHARIKATHU VEEDU, POTTENCHIRA,
KUDAPPARAMOODU PO, THIRUVANANTHAPURAM 695 510.

BY ADVS.SRI.P.SANKARANKUTTY NAIR
SRI.K.SANDESH RAJA
SRI.SANDEEP T.GEORGE

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF AGRICULTURE, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM 695001.
2. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE KERALA PUBLIC SERVICE COMMISSION, PATTOM,
TRIVANDRUM 695004.
3. KERALA AGRO INDUSTRIES CORPORATION LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR,
KISSAN JYOTHI, FORT, THIRUVANANTHAPURAM 695 023.

R3 – BY SRI.M.GOPIKRISHNAN NAMBIAR
BY SR.GOVERNMENT PLEADER SRI.SOJAN JAMES
R2 – BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

- EXHIBIT P1: TRUE COPY OF THE NOTIFICATION ISSUED BY THE PUBLIC SERVICE COMMISSION DATED 30.9.2009 TO THE OFFICE OF OFFICE ASSISTANT IN THE 3RD RESPONDENT CATEGORY NO.347/2009.
- EXHIBIT P2: TRUE COPY OF THE CERTIFICATE NO.28227, A 2000 ISSUED BY THE UNIVERSITY OF KERALA DATED 13.12.2000
- EXHIBIT P3: TRUE COPY OF THE MARK LIST ISSUED BY THE UNIVERSITY OF KERALA TO THE PETITIONER FOR THE FINAL YEAR B.COM EXAMINATION DATED 14.8.2000.
- EXHIBIT P4: TRUE COPY OF THE SHORT LIST PL.NO.36/2012/ER IV(A), CATEGORY NO.347/2009 DATED 4.4.2012.
- EXHIBIT P5: TRUE COPY OF THE RANK LIST PUBLISHED BY THE 2ND RESPONDENT R/L NO.203/14/ER IV A DATED 1.4.2014.
- EXHIBIT P6: TRUE COPY OF THE CERTIFICATE NO.Ac.A.III/1/35309/2014 DATED 3.9.2014.
- EXHIBIT P7: TRUE COPY OF THE ORDER NO.ER IV A(2) 4008/ 11 /EW DATED 26.9.2014.
- EXHIBIT P8: TRUE COPY OF THE RELEVANT PAGE TAKEN FROM THE WEBSITE OF THE PSC ADDITIONALLY ACCEPTING COURSES EQUIVALENT TO THE CERTIFICATE OF COMPUTERIZED SYSTEM OF ACCOUNTING.
- EXHIBIT P9: TRUE COPY OF THE REPRESENTATION NO.20515/ ORD/ CM/2014 DATED 27.11.2014 GIVEN TO THE CHIEF MINISTER WITH COPY TO THE GOVERNMENT SECRETARY.
- EXHIBIT P10: TRUE COPY OF THE LETTER NO. AGRI-PU3/24-AGRI DATED 30.3.2015.
- EXHIBIT P11: TRUE COPY OF THE SYLLABUS OF THE ELECTRONIC DATA PROCESSING AND COMPUTER APPLICATION -I & II OF UNIVERSITY OF KERALA.
- EXHIBIT P12: A TRUE COPY OF THE SYLLABUS OF ACCOUNTING WITH TALLY ERP.9 (AWT9) ISSUED BY THE NIIT.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDHAN, J.

W.P.(C)No.16771 of 2015

Dated this the 30th day of June, 2015

JUDGMENT

The petitioner applied for the post of Office Assistant under the 3rd respondent pursuant to Ext.P1 notification dated 30.9.2009 issued by the Kerala Public Service Commission (hereinafter referred to as the 'PSC'). Going by Ext.P1 notification the qualifications prescribed for the post of Office Assistant are (i) B.Com degree from any recognized University, (ii) Diploma in Computer Application and (iii) Certificate in Computerized System of Accounting.

2. Going by Ext.P2 the petitioner is having B.Com. with Electronic Data Processing and Computer Applications as optional subject, secured from the Kerala University. Ext.P3 is the mark list issued by the University, which shows the various subjects studied as part of the curriculum of the aforesaid course.

3. Pursuant to the application submitted by the petitioner she was called for a written test conducted by the PSC on 9.6.2011. Thereafter, the PSC published Ext.P4 short list containing the Register Numbers of candidates who are found provisionally eligible

to be included in the Ranked List, subject to the verification of the original documents. Based on Ext.P4 the petitioner produced the original documents for verification before the PSC. The PSC published Ext.P5 Ranked List, which came into force with effect from 1.4.2014, in which the name of the petitioner was not included.

4. On enquiry, the petitioner came to know that her name was not included in Ext.P4 Ranked List on the ground that she does not have the third qualification prescribed in Ext.P1 notification, namely, "Certificate in Computerized System of Accounting". Relying on Ext.P6 certificate issued by the Kerala University the petitioner would contend that the subject 'Electronic Data Processing and Computer Application' of B.Com Degree Course of the University covers the syllabus of 'Computerised Accounting' including Application of Accounting packages, in two papers of 150 teaching hours. Relying on Ext.P6 the petitioner submitted a representation dated 11.9.2014 before the PSC, for treating B.Com degree with "Electronic Data Processing and Computer Application" as optional subject as equivalent to certificate in Computerised System of Accounting prescribed in Ext.P1 notification. But the said

representation was rejected by the PSC by Ext.P7 communication dated 26.9.2014 in which it has been stating that, the B.Com. degree with 'Electronic Data Processing and Computer Applications' secured by the petitioner has already been treated as equivalent to B.Com Degree from any recognized University and also as equivalent to Diploma in Computer Application. But there is no Government Order equating the said qualification as equivalent to the third qualification, i.e., Certificate in Computerized System of Accounting and in such circumstances, the request made by the petitioner for inclusion of her name in Ext.P5 Ranked List cannot be considered.

5. The petitioner would also contend that, in the official website of the PSC the Commission has published the various courses in Computer System of Accounting, which have already been accepted as equivalent to that prescribed in Ext.P1 notification. Ext.P8 list of courses published in the official website of the PSC makes it clear that the PSC is accepting the certificate issued by various institutions in Computer System of Accounting as equivalent to that prescribed in Ext.P1 notification. If that be so, the qualification acquired by the petitioner vide Ext.P2, which covers the

syllabus of Computerized Accounting, including Application of Accounting should also be accepted as equivalent to Certificate in Computer System of Accounting prescribed in Ext.P1. Raising such a plea the petitioner has submitted Ext.P9 representation before the Government. But the same was rejected by Ext.P10 communication dated 30.3.2015 stating that, since the recruitment for the post is through PSC and equalency of the qualification and its approval are being decided by the PSC, the request made by the petitioner cannot be considered.

6. It is aggrieved by Exts.P7 and P10 the petitioner is before this Court in this Writ Petition, seeking a writ of certiorari to quash the aforesaid orders and seeking a writ of mandamus directing the respondents to treat B.Com with Electronic Data Processing and Computer Applications as equivalent to Certificate in Computerized System of Accounting.

7. I heard the arguments of the learned counsel for the petitioner, learned Government Pleader appearing for the first respondent, the learned Standing Counsel for the second respondent and also the learned Standing Counsel for the third respondent.

8. As evident from Ext.P1, one of the qualifications prescribed for the post of Office Assistant in the Kerala Agro Industries Corporation Ltd includes the Certificate in Computerized System of Accounting. As borne out from Ext.P7 communication issued by the PSC, the B.Com. degree with Electronic Data Processing and Computer Application secured by the petitioner from the University of Kerala has already been treated as equivalent to qualification B.Com from any recognized University and also as equivalent to Diploma in Computer Applications. Going by the stand taken by the PSC in Ext.P7 communication the name of the petitioner was not included in Ext.P5 Ranked List for the sole reason that the B.Com. degree secured by her is not treated as equivalent Certificate in Computer System of Accounting. A reading of Ext.P7 communication would show that, according to the PSC, since there is no Government Order equating the B.Com degree secured by the petitioner as one equivalent to Certificate in Computerized System of Accounting prescribed in Ext.P1 notification, the rejection of her candidature is perfectly legal.

9. On receipt of Ext.P7 communication, the petitioner moved a representation before the Government, seeking an order to treat the B.Com degree secured by her as equivalent to Computerized System of Accounting prescribed in Ext.P1 notification, but that request was turned down in Ext.P10, stating that, since the recruitment is through the PSC, the equivalency of qualifications and its approval are being granted by the PSC. In such circumstances, the request made by the petitioner cannot be considered by the Government. The learned Senior Government Pleader would also contend that, it is for the PSC to consider whether the qualification of B.Com. with Electronic Data Processing and Computer Applications can be treated as one equivalent to Certificate in Computerized System of Accounting.

10. Rule 10 of the Kerala State & Subordinate Services Rules, 1958 deals with qualifications. Going by sub-clause (i) to Clause (a) of Rule 10 the educational or other qualifications, if any, required for a post shall be as specified in the Special Rules applicable to the service in which that post is included or as specified in the executive orders of Government in cases where Special Rules have not been

issued for the post/service. Going by sub-clause (ii) notwithstanding anything contained in these Rules or in the Special Rules, the qualifications recognized by executive orders or standing orders of Government as equivalent to a qualification specified for a post, in the Special Rules or found acceptable by the Commission as per Rule 13(b) (i) of the said Rules, in cases where acceptance of equivalent qualifications is provided for in the Rules, and such of those qualifications which pre-suppose the acquisition of the lower qualification prescribed for the post, shall also be sufficient for the post.

11. In the case on hand the 3rd respondent is a Government owned Corporation and the qualification for recruitment to various posts under the Corporation is governed by the rules framed by it with the approval of the Government. As evident from Ext.P8 certain courses conducted by various institutions in the State have already been additionally accepted as courses in Computerized System of Accounting and candidates who possess such qualification are permitted to be appointed as Office Assistant in the 3rd respondent Corporation. Therefore, the only question that has to be decided is

as to whether a candidate holding B.Com. with Electronic Data Processing and Computer Applications can be treated as a person holding Certificate in Computerized System of Accounting in terms of Ext.P1 notification. A reading of Ext.P7 communication issued by the PSC would make it clear that, only in the absence of any Government Order to accept the B.Com. degree secured by the petitioner as equivalent to Certificate in Computerized System of Accounting, her name was not included in the ranked list. In the absence of any such Government Order, the PSC cannot be found fault with in arriving at such a conclusion in Ext.P7. It is for the first respondent to take a decision on the question as to whether B.Com with Electronic Data Processing and Computer Applications can be additionally accepted as Certificate in Computerized System of Accounting along with other courses in Ext.P8 list. Therefore the stand taken by the first respondent in Ext.P10 that it is a decision which has to be taken by the PSC cannot be sustained.

12. In the result, Ext.P10 communication issued by the first respondent is set aside and the Writ Petition is disposed of with the following directions:-

- (1) Along with a certified copy of this judgment the petitioner shall submit a detailed representation before the first respondent producing therewith the materials relied on by her like Exts.P6, P8 and P11, which representation shall be treated as one filed in order to supplement Ext.P9 representation.
- (2) On receipt of such representation along with a certified copy of this judgment, the first respondent shall re-consider the matter and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month, if necessary with notice to the 3rd respondent.
- (4) Any decision taken on the said representation shall be communicated to the petitioner without further delay.

ANIL K.NARENDRA, JUDGE

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