

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 21061 of 2015 (G)

PETITIONER : -

RANJITHA A.K., AGED 45 YEARS,
W/O.VENKETESWARAN, SENIOR CLERK,
EVENING BRANCH, PANTHEERANKAVE SERVICE CO-OPERATIVE BANK
LTD.NO.2110, P.O.PANTHEERANKAVE, KOZHIKODE - 673 019,
RESIDING AT "KARTHIKA", THIRUVANNOOR P.O.,
KOZHIKODE - 673 029.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.C.DINESH

RESPONDENTS:-

1. THE JOINT REGISTRAR (G) OF CO-OPERATIVE SOCIETIES,
SAHAKARANA BHAVAN, PUTHIYARA, KOZHIKODE - 673 004.
2. THE ASSISTANT REGISTRAR (G) OF CO-OPERATIVE SOCIETIES,
SAHAKARANA BHAVAN, PUTHIYARA, KOZHIKODE - 673 004.
3. THE PANTHEERANKAVE SERVICE CO-OPERATIVE BANK LTD. NO.2110,
PANTHEERANKAVE P.O., KOZHIKODE - 673 019,
REPRESENTED BY ITS SECRETARY.

R3 BY ADV.SRI.P.P.JACOB
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 21061 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE REPRESENTATION DATED 08.07.2015
SUBMITTED BY THE PETITIONER BEFORE R1.

EXHIBIT P1(a) : ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2 : TRUE COPY OF THE COMMUNICATION DATED 23.06.2015 WITH
THE ENDORSEMENT OF THE PRESIDENT OF THE 3RD
RESPONDENT BANK.

EXHIBIT P2(a) : ENGLISH TRANSLATION OF EXHIBIT P2.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 21061 of 2015

Dated this the 12th day of August, 2015

JUDGMENT

The petitioner, presently working as a Senior Clerk, has a claim to be promoted to the post of either Internal Auditor or Accountant. The petitioner's grievance is that he has been denied promotion to either of the posts on an untenable ground that certain seniors to him in the rank have been facing charges of producing false degree certificates. Thus questioning the delay on the part of the respondent authorities in considering his Exhibit P2 representation, the petitioner has approached this Court.

2. The learned counsel for the petitioner in the above factual background has submitted that as regards the issue of getting promoted to the post of Internal Auditor, the Arbitration Court has settled it in A.R.C. No.3/2013 and A.R.C No.25/2013, through a common order dated 24.07.2015. It was subsequent to filing of the present writ petition, though.

3. Adverting to the order of the Arbitration Court, which is not part of the record in the writ petition, the learned counsel has submitted that, indisputably, the findings have gone against the petitioner herein. He is, in fact, the fourth respondent in those proceedings. According to the learned counsel, the petitioner has also staked a claim to the post of Accountant, to which the petitioner is said to have been eminently suited. The learned counsel has also submitted that the petitioner has already submitted Exhibit P2 representation before the third respondent, but it has not been so far considered in line with the law.

4. In response, the learned counsel for the third respondent has submitted that the issue already stands concluded in order dated 24.07.2015 in A.R.C. No.3/2013 and A.R.C 25/2013 rendered by the learned Arbitration Court. He has, at any rate, further contended that on the issue of denial of promotion, the petitioner has an efficacious alternative remedy under Section 69 of the Co-operative Societies Act, 1969 (the 'Act' for brevity). Accordingly, he has urged this Court to dismiss the writ petition.

5. At the outset, I shall make it clear that the order of the learned Arbitration Court in A.R.C. No. 3/2013 and

A.R.C. No. 25/2013 has not been placed on record. However, the learned counsel for the third respondent has supplied a copy of it at the bar. A perusal of the said order makes it very clear that the issue determined by the Tribunal therein is concerning the eligibility of a candidate to be promoted as an Internal Auditor. In my considered view, the issue of getting promoted to the post of Accountant has not fallen for consideration. Even otherwise, any incidental or collateral observation regarding an issue that has not actually fallen for consideration can only be an obiter, and nothing more.

6. There is, by any reckoning, sufficient force in the contention of the learned counsel for the third respondent that the petitioner does have an efficacious alternative remedy. The learned counsel for the petitioner has, however, countered the said submission by contending that, in the first place, there is no order to be assailed before the Arbitration Court. According to him, Exhibit P2 is yet to be considered by the second respondent.

7. Be that as it may, this Court does not intend to go into the merits of the matter. As such, I do not think the issue of alternative remedy is going to be a hindrance. It will

suffice if a direction is given to the third respondent to consider petitioner's Exhibit P2 representation in line with the law.

8. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the third respondent, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the third respondent to consider the petitioner's Exhibit P2 representation in accordance with law, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

It goes without saying that no observation in the present disposition comes in the way of the petitioner's right to lay a proper challenge against the award passed by the Arbitration Court in A.R.C. No. 3/2013 and A.R.C. No. 25/2013.

With the above observations, the writ petition stands disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**