

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 21622 of 2015 (C)

PETITIONER:

A.K.ACHUTHAN, ACCOUNTANT, KUMARAMPUTHUR
SERVICE CO-OPERATIVE BANK LTD.NO.P 373,
P.O.MANNARKKAD COLLEGE, PALAKKAD DIST.-678 583.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), OFFICE OF THE ASSISTANT
REGISTRAR OF CO-OPERATIVE SOCIETIES (G),
P.O.MANNARKKAD, PALAKKAD DISTRICT-678 583.
2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), OFFICE OF THE JOINT REGISTRAR
OF CO-OPERATIVE SOCIETIES (G), CIVIL STATION,
PALAKKAD-678 014.
3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE
SOCIETIES, THIRUVANANTHAPURAM-695 001.
4. THE KUMARAMPUTHUR SERVICE CO-OPERATIVE
BANK LTD. NO. P 373, P.O. MANNARKKAD COLLEGE,
PALAKKAD DISTRICT-678 583 REP. BY ITS SECRETARY.

R4 BY ADVS. SRI.B.S.SWATHY KUMAR
SRI.VENKATESH GOPI
SMT.T.RESHMA
SRI.REMYA MURALI

R1 TO R3 BY GOVT. PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 21622/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE PHOTOCOPY OF THE SENIORITY LIST OF EMPLOYEES OF THE FOURTH RESPONDENT

EXT. P2 TRUE PHOTOCOPY OF THE RESOLUTION NO.8 DATED 7.5.2015 OF THE FOURTH RESPONDENT

EXT.P2(a) TRUE ENGLISH TRANSLATION OF EXT.P2

EXT. P3 TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE THIRD RESPONDENT TO THE SECOND RESPONDENT DATED 5.5.2015

EXT.P3(a) TRUE ENGLISH TRANSLATION OF EXT.P3

EXT. P4 TRUE PHOTOCOPY OF THE LETTER ISSUED BY FIRST RESPONDENT TO THE SECOND RESPONDENT

EXT.P4(a) TRUE ENGLISH TRANSLATION OF EXT. P4

EXT. P5 TRUE PHOTOCOPY OF THE COMMUNICATION ISSUED BY THE SECOND RESPONDENT TO THE FIRST RESPONDENT

EXT.P5(a) TRUE ENGLISH TRANSLATION OF EXT. P5

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.21622 of 2015 C

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner, who earlier worked as an Accountant, was promoted one year ago as Branch Manager in-charge. However, he could not be confirmed as the Branch Manager since he does not possess the necessary qualification. In that regard when the respondent Bank, invoking the power under Rule 185 of the Kerala Co-operative Societies Rules ('the Rules' for brevity), submitted an application to the second respondent, he issued Exhibit P5 proceedings declaring that since there are no vacancies in the respondent Bank, the request for exempting the petitioner from possessing necessary qualifications could not be considered. Assailing Exhibit P5, the petitioner has approached this Court.

2. The learned counsel for the petitioner has submitted that the second respondent is only a forwarding authority and it is the third respondent who has to take a decision concerning

exempting an employee from possessing necessary qualification as has been provided under Rule 185 of the Rules. He has further contended that there is a clear vacancy in the respondent Bank but that position has not been properly ascertained by the authorities. Eventually he has sought a direction to the second respondent to forward the Bank's application to the third respondent, who, in turn, is required to take a decision based on the vacancy position in the respondent Bank.

3. The learned Standing Counsel for the respondent Bank has submitted that there is a clear vacancy, as is evident from Exhibit P1.

4. In the light of the above submissions of the learned counsel for the petitioner and the respondent Bank, the learned Government Pleader has submitted that the second respondent will forward the application to the third respondent and the said authority will take a final decision in terms of Rule 185, duly keeping in mind the submission made by the learned Standing Counsel for the respondent Bank that there is a clear vacancy.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, this Court disposes of the writ petition with a direction to the second respondent to forward to the third respondent the application said to have been submitted by the respondent Bank for providing exemption to the petitioner from possessing necessary qualification. It is further made clear that the third respondent, on receipt of the said application, shall pass appropriate orders in accordance with law, as expeditiously as possible, given the fact that the petitioner is to retire on 31.07.2015 on his attaining superannuation.

Dama Seshadri Naidu, Judge

tkv