

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C) .No. 32663 of 2006 (L)

PETITIONER(S) :

K.GOPAKUMAR,
MANIYANGATTIL HOUSE, ALAPAD P.O.,
TRICHUR.

BY ADVS.SRI.C.HARIKUMAR
SRI.ARAVINDA KUMAR BABU T.K.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.
2. JOINT REGISTRAR (GENERAL) ,
CO-OPERATIVE SOCIETIES, THRISSUR.
3. ASSISTANT REGISTRAR (GENERAL) ,
CO-OPERATIVE SOCIETIES, THRISSUR.
4. PERIGOTTUKARA,
SERVICE CO-OPERATIVE BANK LTD., NO.110, TRIPAYAR,
REPRESENTED BY ITS SECRETARY.

R4 BY ADV. SRI.P.V.SURENDRANATH
BY GOVERNMENT PLEADER SRI.SOJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/09/2015
THE COURT ON 29-09-2015, DELIVERED THE FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P-1: TRUE COPY OF THE REPRESENTATION DATED 25/10/01 OF THE PETITIONERS' MOTHER.
- EXT.P-2: TRUE COPY OF THE REPRESENTATION DATED 24/02/2003 OF PETITIONER.
- EXT.P-3: TRUE COPY OF THE ORDER DATED 22/03/2003 ISSUED BY THE 3RD RESPONDENT.
- EXT.P-4: TRUE COPY OF THE REPRESENTATION DATED 16/08/2003 OF THE PETITIONER.
- EXT.P-5: TRUE COPY OF THE ORDER NO.C.R.P.4903/03 DATED 11/12/03 ISSUED BY THE 2ND RESPONDENT.
- EXT.P-5: TRUE COPY OF THE REPRESENTATION DATED 04/10/06 PREFERRED BY THE PETITIONER.

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RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 32663 of 2006

Dated this the 29th day of September, 2015

J U D G M E N T

Aggrieved by the inaction on the part of the 4th respondent society in initiating necessary steps for the appointment of the petitioner under R.188A of the Co-operative Societies Rules (Employment Assistance to Dependants of Employee Dying in Harness), the petitioner has approached this Court.

2. The petitioner alleges that he had preferred an application before the 4th respondent society under the Employment Assistance Scheme. The 2nd respondent, on 11.12.2003, issued an order informing the 4th respondent to make a fresh application citing the reason of delay of six months in submitting the application. According to the petitioner, there is no willful laches on his part in submitting the application. He points out that R.188A of the Co-operative Societies Rules is a welfare provision,

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which enables the dependants to get a job if the employee dies in service. He further alleges that the benefit of the said provision is sought to be taken away by the 2nd respondent on merely technical grounds. It is with this background, the petitioner has come up before this Court.

3. The 4th respondent filed a counter affidavit, contending that the petitioner was over aged as per rule 183 of the Kerala Co-operative Societies Rules; and moreover, there was no vacancy in any of the posts/cadre for accommodating the petitioner. It is also contended that the financial position of the society is very weak to afford any supernumerary post to accommodate the petitioner.

4. Arguments have been heard.

5. The main prayer in this writ petition is for a direction to the 2nd respondent to give concurrence to the appointment of the petitioner under Dying In Harness Scheme and to direct the 4th respondent to initiate steps to implement the directions in Exts.P3 & P5 orders. On

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the death of the father of the petitioner on 05.11.1993, who was the Secretary of the respondent society, the petitioner's mother submitted an application on 01.06.1995 for employment assistance to any of the dependants of the employee. As per Rule 188A(c) of the Kerala Co-operative Societies Rules, the application has to be filed within a period of one year from the date of the death. Neither the petitioner nor his mother has submitted the application in time. Anyhow, the society forwarded the application to the 2nd respondent. The application was rejected by the Joint Registrar as it was belated. Thus, it culminated in Ext.P5 order. After issuing Ext.P5 order, the petitioner has not approached the respondent society till 04.10.2006 even with an application for condoning the delay in submitting the original application.

6. It is stated in the counter affidavit filed by the 4th respondent that the petitioner has been working as a driver; and therefore, the averment in the writ petition

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that the petitioner is not having any employment for his livelihood is incorrect. The petitioner is guilty of severe laches as declared by the apex court from time and again. He is not entitled for any appointment at this point of time after 21 years of the death of the employee. Any such appointment would be against the spirit of the concept of employment assistance to the dependent of employees dying in harness and Rule 188A. In the light of what has been stated above, this Court is of the definite view that the petitioner is not entitled to get the relief as prayed for.

In the result, the writ petition is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-