

IN THE HIGH COURT OF KERALAAT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 29175 of 2012 (V)

PETITIONER:

PRASHANTH P., AGED 38 YEARS,
S/O KUNHAMBU NAIR,
SREEVALSAM, PADINMATTAM,
KOZHIVAL, NEELESWARAM 671 314,
KASARGOD DISTRICT.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENT(S):

1. THE NEELESWARAM SERVICE CO-OPERATIVE BANK LTD NO.L.527,
H.O. PB NO.3, RAJA ROAD,
NILESHWAR, KASARGOD DISTRICT – 671 314.
2. THE SECRETARY,
THE NEELESWARAM SERVICE CO-OPERATIVE BANK LTD.NO.L.527,
H.O.PB NO.3, RAJA ROAD,
NILESHWAR, KASARGOD DISTRICT-671 314.

BY ADV. SRI.P.N.MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.29175/2012

PETITIONER'S EXTS:

- EXT.P1: COPY OF DEATH CERTIFICATE DT.27.2.2003.
- EXT.P2: COPY OF LETTER DT.22.12.2010 ISSUED BY THE RESPONDENTSTO THE PETITIONER.
- EXT.P3: COPY OF LETTER DT.21.1.2011 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P4: COPY OF REPRESENTATION DT.30.1.2012 ISSUED BY THE PETITIONER TO THE RESPONDENT.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.29175 Of 2012

DATED THIS THE 3rd DAY OF SEPTEMBER, 2015

JUDGMENT

The petitioner's father, late Kunhambu Nair, who was working as Clerk in the 1st respondent Bank died-in-harness on 20.2.2003. Ext.P1 is the death certificate issued by the Neeleswaram Grama Panchayat certifying that the petitioner's father died on 20.3.2003. The petitioner, who has passed SSLC and Diploma in Computer Engineering, has approached the 1st respondent Bank requesting for compassionate appointment, which was not positively considered. It was in such circumstances, the petitioner has approached this Court in this Writ Petition seeking a writ of mandamus commanding the respondents to consider his application for appointment on compassionate ground. He has also sought for a writ of certiorari to quash Ext.P2 communication issued by the 1st respondent Bank in which his application dated 26.11.2010 was turned down stating that, the time limit prescribed under Rule 188A(c) of the Kerala Co-operative Societies Rules, 1969 is one year and as such the application submitted by the petitioner is highly belated.

2. I heard arguments of the learned counsel for the petitioner and also the learned Standing Counsel appearing for the 1st respondent Bank.

3. Going by the pleadings and documents on record, the petitioner's father late P.Kunhambu Nair died-in-harness on 20.2.2003, while working as a Clerk in the 1st respondent Bank. The petitioner would contend that he and his sister had filed a joint application before the 1st respondent Bank on 20.2.2004 claiming appointment on compassionate ground. Since his sister was married, she did not pursue her claim on finding that the petitioner alone was entitled for appointment on compassionate ground. It was thereafter, the petitioner submitted a representation before the 1st respondent Bank, which according to the petitioner is only a reminder to the earlier application referred to above dated 20.2.2004. In response to the aforesaid representation, the petitioner received Ext.P2 communication, in which the 1st respondent Bank has informed that, the claim for compassionate appointment much after the death of the

employee is hit by the provisions under Rule 188A(c) of the Kerala Co-operative Societies Rules and as such the petitioner is not entitled for the relief prayed for. On receipt of Ext.P2 communication, the petitioner submitted Ext.P3 representation, which was followed by Ext.P4 representation.

4. A counter affidavit has been filed on behalf of the 2nd respondent pointing out that, the claim for compassionate appointment made by the petitioner is highly belated. Further, the petitioner is not having JDC, which is an essential qualification for the lowest post and as such he is not entitled for appointment. Further, the 2nd respondent would rely on Rule 188A of the Co-operative Societies Rules, which deals with employment assistance to dependant employees died-in-harness. Clause (c) of Rule 188A categorically provides that, application for appointment under the Scheme shall be made by the dependant within one year from the date of death of the employee. Where the dependant happens to be a minor, the application shall be submitted within a period of three years from

the date of his/her attaining the age of majority.

5. It is pertinent to note that, though the petitioner would contend that the application submitted on 20.2.2004 was a joint application submitted by him and his sister, there is nothing on record to indicate that such a joint application has been made by the petitioner along with his sister. Going by the documents on record, the only application submitted by the petitioner is one dated 26.11.2010, which has been considered and the request made by the petitioner was turned down in Ext.P2 for the reason that the claim made by the petitioner is highly belated and hit by Rule 188A(c) of the Rules. Further, it is also not in dispute that, the petitioner does not have JDC, which is one of the essential qualifications for recruitment to the lowest post in the 1st respondent Bank.

6. Since the petitioner is neither having the requisite qualification for recruitment to the post in question in order to claim appointment on compassionate ground nor has made an appropriate application claiming compassionate appointment

within the time limit stipulated in Section 188A(c) of the Rules, the reasoning of the 2nd respondent in Ext.P2 that the petitioner is not entitled for appointment on compassionate ground cannot be termed either perverse or patently illegal warranting interference of this Court.

In the result, the Writ Petition fails and the same is dismissed.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn

True copy

P.S.to Judge