

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 31264 of 2014 (G)

PETITIONERS:

1. PAUL CHACKO,
ASSISTANT MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK,
REGIONAL OFFICE, KANNUR.
2. S.REMESAN,
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK,
REGIONAL OFFICE, PATHANAMTHITTA.
3. KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK EMPLOYEES' UNION (BEFI)
REG.NO.327/77, REPRESENTED BY ITS GENERAL SECRETARY,
AGRICULTURAL DEVELOPMENT BANK BUILDING, STATUE,
THIRUVANANTHAPURAM-695001.

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:

1. THE MANAGING COMMITTEE OF THE KERALA STATE
CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK,
REPRESENTED BY ITS PRESIDENT,
AGRICULTURAL DEVELOPMENT BANK BUILDING, STATUE,
THIRUVANANTHAPURAM-695 001.
2. THE MANAGING DIRECTOR,
KERALA STATE CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK,
AGRICULTURAL DEVELOPMENT BANK BUILDING, STATUE,
THIRUVANANTHAPURAM-695 001.
3. THE GENERAL MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK,
AGRICULTURAL DEVELOPMENT BANK BUILDING, STATUE,
THIRUVANANTHAPURAM-695 001.

4. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.
5. APARNA PRATHAP, AGED 44 YEARS,
W/O.MR.M.SREEDHARAN NAIR,
WORKING AS GENERAL MANAGER IN CHARGE,
KERALA CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK,
AGRICULTURAL DEVELOPMENT BANK BUILDING, STATUTE,
THIRUVANANTHAPURAM - 695 001.
6. SINDHU R. NAIR, AGED 47 YEARS,
D/O.MR.M.K.RAVINDRAN NAIR, PRINCIPAL,
KSCARD BANK INSTITUTE FOR TRAINING AND MANAGEMENT
KADAVANTHRA, KOCHI- 682 020.
7. PRINCE V.V.,
SECRETARY, TALIPARAMBA PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT BANK,
TALIPARAMBA, PAYYANNUR, KANNUR DISTRICT.
8. P.AJITH,
JUNIOR CLERK,
TALIPARAMBA PRIMARY CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK, TALIPARAMBA,
PAYYANNUR, KANNUR DISTRICT - 670 141.
9. SREEDEVI S,
AGRICULTURAL DEVELOPMENT OFFICER,
NOW WORKING AS FACULTY MEMBER,
INSTITUTE FOR TRAINING & MANAGEMENT,
KERALA STATE CO-OPERATIVE AGRICULTURAL &
RURAL DEVELOPMENT BANK LTD.,
GANDHI NAGAR, COCHIN - 682 020.
10. VIJAYAN B. NAIR,
REGIONAL MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, ERNAKULAM - 682 011.
11. SAJU PETER,
REGIONAL MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, KASARAGOD - 671 121.
12. ISA BEEVI,
REGIONAL MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, PALAKKAD - 678 001.

13. R.VIJAYAN,
REGIONAL MANAGER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.
REGIONAL OFFICE, KOLLAM - 691 001.
14. ELIZABETH GEORGE,
AGRICULTURAL DEVELOPMENT OFFICER
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, ALAPPUZHA - 688 001.
15. SUNIL KUMAR V.C.,
AGRICULTURAL DEVELOPMENT OFFICER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, KOTTAYAM.
16. M.RAVEENDRAN,
AGRICULTURAL DEVELOPMENT OFFICER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.,
REGIONAL OFFICE, KOZHIKODE - 673 001.
17. NAZRIKHAN M.,
AGRICULTURAL DEVELOPMENT OFFICER,
KERALA STATE CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD.
REGIONAL OFFICE, KOLLAM - 691 001.

R1-R3 BY ADV. SRI.GEORGE POONTHOTTAM, SC
BY ADV. SRI.C.A.MAJEED
BY ADV. SRI.K.H.ASIF
BY ADV. SMT.RAAGA R.RAMALAKSHMI
BY ADV. SRI.O.D.SIVADAS
BY ADV. SRI.ELVIN PETER P.J.
BY ADV. SRI.T.G.SUNIL (PRANAVAM)
BY ADV. SRI.K.R.GANESH
BY ADV. DR.K.P.SATHEESAN (SR.)
BY ADV. SRI.M.R.JAYAPRASAD
BY ADV. SRI.P.MOHANDAS (ERNAKULAM)
BY ADV. SRI.ANOOP.V.NAIR
BY ADV. SRI.S.VIBHEESHANAN
BY ADV. SRI.N.MANU THAMPI
SRI. D. SOMASUNDARAM, GOVERNMENT PLEADER
SRI. A.J. JOSE AEDAIDI, SPL. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-05--2015, THE COURT ON 16-07-2015 DELIVERED THE FOLLOWING:

APPENDIX

: 4 :

PETITIONERS' EXHIBITS :

P1: COPY OF THE STAFF FIXATION ORDER.

P2: COPY OF THE SENIORITY LIST OF THE EMPLOYEES.

P3: COPY OF THE COMPLAINT DATED 14.7.2014 FILED BY THE THIRD PETITIONER BEFORE THE FIRST RESPONDENT.

P4: COPY OF THE COMPLAINT DATED 28.10.2014 FILED BY THE THIRD PETITIONER BEFORE THE FIRST RESPONDENT.

P5: COPY OF THE JUDGMENT DATED 21.8.2014 IN W.A.NO.1142/2014.

P6: COPY OF THE PETITIONS FILED BY THE 2ND PETITIONER.

P7: TRUE COPY OF THE FEEDER CATEGORY SUB RULES APPROVED BY THE REGISTRAR.

P8: TRUE COPY OF THE JUDGMENT DATED 03.08.2004 IN W.A. NO. 1312/2004.

P9: TRUE COPY OF THE AMENDED FEEDER CATEGORY DATED 06.06.2013 ISSUED BY THE REGISTRAR.

P10. TRUE COPY OF THE INTERIM ORDER DATED 28.01.2015 IN W.P.(C) NO. 24907/2014.

P11: TRUE COPY OF THE PROMOTION ORDER GIVEN BY THE BANK ON 12.02.2015.

P12: TRUE COPY OF THE RELEVANT PORTION OF THE AGENDA NOTE WITH DETAILS OF THE EMPLOYEES FOR PROMOTION PREPARED BY THE BANK.

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE COMMUNICATION NO.EM(1)11989/2013 DATED 30.09.2013.

EXT.R1(b): TRUE COPY OF THE COMMUNICATION NO.EM(4)/54006/2013 DATED 29.11.2013.

EXT.R1(c): TRUE COPY OF THE JUDGMENT IN WA NO. 896 OF 2008 DATED 27.01.2014.

EXT.R7(a): TRUE COPY OF THE ORDER DATED 05.09.1986 BY THE REGISTRAR

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OF CO-OPERATIVE SOCIETIES, TRIVANDRUM.

EXT.R7(b): TRUE COPY OF THE FEEDER CATEGORY SUB RULES FRAMED UNDER RULE 185(1) OF THE KCS RULES.

EXT.R7(c): TRUE COPY OF THE JUDGMENT IN W.A. NO. 866/2008 OF THIS HONOURABLE COURT.

EXT.R7(d): TRUE COPY OF THE LETTER DATED 20.05.2014 ISSUED BY THE SECRETARY, KERALA PUBLIC SERVICE COMMISSION TO THE MANAGING DIRECTOR, KERALA STATE CO-OPERATIVE AGRICULTURAL & RURAL DEVELOPMENT BANK LTD.

EXT.R7(e): TRUE COPY OF THE PROCEEDINGS DATED 12.02.2015 ISSUED BY THE GENERAL MANAGER IN CHARGE OF THE KERALA STATE CO-OPERATIVE AGRICULTURAL & RURAL DEVELOPMENT BANK LTD.

EXT.R10(a): TRUE COPY OF THE RELEVANT PAGES OF THE SENIORITY LIST PUBLISHED BY THE KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK AS ON 01.09.2013.

EXT.R10(b): TRUE COPY OF THE JUDGMENT DATED 01.04.2008 IN W.P.(C) NO. 476/2008 AND CONNECTED WRIT PETITIONS.

EXT.R10(c): TRUE COPY OF THE JUDGMENT DATED 27.01.2014 IN W.A. NO. 866/2008 AND CONNECTED WRIT APPEALS.

EXT.R10(d): TRUE COPY OF THE CIRCULAR ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES DATED 30.09.2013.

EXT.R10(e): TRUE COPY OF THE CIRCULAR ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES DATED 29.11.2013.

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 31264 of 2014 (G)

Dated this the 16th day of July, 2015.

JUDGMENT

The quintessential question this writ petition wrestles with is, does the sub-delegation survive even when the very source, the delegated legislation, dies out? In such an eventuality, does the formal demise of the sub-delegation still require judicial invalidation?

2. Hierarchically, the Kerala State Co-Operative Agricultural and Rural Development Bank, an Apex Co-Operative Society, is manned by the managing Director, usually a civil servant on deputation. Below him is the officer on special duty followed by the General Manager. In terms of extant statutory scheme, there is one General Manager for the Society under whom there are two Administrative Officers followed by 21 Regional Managers. Below the Regional Managers are 21 Deputy Managers. Though to the level of cleaner and guest room keeper there are other hierarchical positions in the organisation, they may not be germane for the purpose of adjudication.

3. Since all the parties to the writ petition have staked claim or

have been promoted to the post of Regional Manager, it suffices if I focus on the mode and method of recruitment and promotion concerning the said post. As could be seen from the record, for the promotion to the post of Regional Manager, the feeder channel comprises two streams; namely, Agricultural Development Officer and Deputy Manager.

4. Petitioners 1 and 2 in the present writ petition are presently working as Assistant Managers, the 3rd petitioner being the registered employees union espousing the cause of all other employees across the board. The singular grievance of the petitioners is that while effecting promotions either to the post of Regional Manager, the respondent Bank has not taken into account the Feeder Category Sub-Rules framed under Rule 185 (1) of the Kerala Co-Operative Societies Rules, 1969 ('the Rules' for brevity). Insofar as the 3rd petitioner is concerned, the grievance ventilated is that the respondent Bank shall take necessary steps to fill up all other posts that have been kept vacant for a long period.

5. In the above factual background, Shri. P.N. Mohanan, the learned counsel for the petitioners, having taken me through the

entire record, has submitted that for many years, there are a large number of vacancies required to be filled up by respondents 2 and 3. It is his specific contention that promotions to the post of Regional Manager are to be effected from different feeder categories in terms of Rule 185 (1) of Kerala Co-Operative Societies Rules, r/w Feeder Category Sub Rules ('the Sub Rules' for brevity).

6. In elaboration of his submissions, the learned counsel would contend that insofar as the direct recruitment is concerned, the Public Service Commission is required to conduct examination and publish the rank list; however, concerning the in-service candidates in the feeder categories, it is mandatory on the part of respondents 2 and 3 to strictly comply with the Rules and the Sub-Rules referred to above.

7. The learned counsel has also contended that though an amendment was effected to Rule 185 of the Rules way back in 1999, to this day, no recruitment/promotions have taken place. Under these circumstances, when the petitioners filed the present writ petition, this Court on 04.02.2015 issued an interim direction, seeking the modification of which the respondents filed a petition but without any success. In the light of the interim order granted on 04.02.2015, the

Bank eventually effected certain promotions on 12.02.2015.

8. The learned Counsel has strenuously contended that not only in violation of the Rules and the Sub-Rules, but also in violation of the interim order granted on 04.02.2015, has the respondent Bank promoted either to the post of Regional Manager or some other posts only from one stream ignoring other streams of feeder category to which the petitioners belong. In this regard, in dilation of his submissions, the learned counsel has drawn my attention to Ext.P7 Sub-Rules to contend that insofar as the post of Regional Manager is concerned, the internal ratio among the different streams of feeder category should be maintained in the ratio of 1:2.

9. Apart from referring to Ext.P6 representation submitted by the second petitioner to the General Manager seeking promotions to be effected, the learned counsel for the petitioners has heavily relied on Ext.P8 judgment rendered by a learned Division Bench of this Court in W.A. Nos. 1301 and 1312 of 2004. According to him, the learned Division Bench repelling the contention to the contrary has unequivocally held that the ratio prescribed under Sub-Rules is required to be followed among the different streams of feeder

category for the purpose of effecting promotions, inter alia, to the post of Regional Manager. In further dilation of his submissions, the learned counsel has submitted that the said judgment has attained finality, and as such this Bench of lesser composition cannot take a contrary view.

10. The learned counsel, referring to Exts.P7 and P9, which are the Sub-Rules and the amendment effected thereof respectively, would contend that none of the respondents has laid any challenge against these sub-Rules; therefore, it is incumbent on the part of the respondent Bank to follow the ratio fixed therein for the purpose of effecting promotions from among the feeder categories for the promotional category.

11. In sum and substance, once the Sub-Rules are read in conjunction with the judicial dictum laid down in Ext.P8 judgment by a learned Division Bench, there is no escape, contends the learned counsel for the petitioner, for the respondent Bank from strictly following the ratio prescribed therein concerning the number of persons to be promoted from different streams. The learned counsel has also placed reliance on Pavithran v. State of Kerala¹ to hammer

¹ 2009 (4) KLT 20 (FB)

home the proposition that there are no void orders in absolute sense in the administrative matters, and that unless an aggrieved person takes recourse to an appropriate remedy at appropriate time, even an illegal order will be treated as valid and binding. In other words, according to the learned counsel for the petitioners, so long as the sub-Rules have not been abrogated and so long as Ext.P8 judgment has not been set aside in further judicial echelons, it is not open for the respondent Bank to simply ignore those provisions and the precedent.

12. Eventually, drawing my attention to Ext.P11, the learned counsel has submitted that the respondent Bank has effected promotions on the strength of the interim order granted on 04.02.2015, but confining it to only one section of people, thereby acting arbitrarily and discriminatorily.

13. The learned counsel has also elaborately made submissions on Rule 185 in its varied nuances, especially with regard to sub-Rules (2) to (6) thereof. Further referring to Ext.R7 (d), the learned counsel has strenuously contended that unless and until the draft regulations, that is, the Modal Recruitment Rules of the respondent Bank, have

received the approval of the Registrar, they cannot have any enforceability.

14. Sri Elvin Peter P.J., the learned counsel for the additional 9th respondent, has attacked the petitioners' stand on various grounds. To begin with, he has assailed the very maintainability of the writ petition at the behest of petitioners 1 and 2 on one hand and the 3rd petitioner on the other hand. According to him, petitioners 1 and 2 have not yet been qualified to stake any claim to the post of Regional Manager. He has further contended that no writ petition shall be maintainable on behalf of the trade unions. In support of his contentions, the learned counsel has placed reliance on T.N. Civil Supplies Corporation Workers Union v. T.N. Civil Supplies Corporation Ltd. and others².

15. Moving on to the merits of the matter, the learned counsel has drawn my attention to the amendment of Rule 185, effected way back in 1999. In elaboration of his submissions, the learned counsel would contend that though the Sub-Rule was amended on 28.04.1999, initially when challenge was laid against the validity of the amendment, a learned Division Bench of this Court suspended the

² (2001) 4 SCC 469

operation of the provision, but eventually dismissed the writ petitions. The learned counsel contends that subsequently when the matter was taken in appeal before the Hon'ble Supreme Court in Special Leave Petitions, there was undeniably an ad interim interdiction against the enforcement of the amended provision, but eventually the very SLPs were dismissed as withdrawn.

16. According to the learned counsel, in 2011 the amended Rule 185 was cleared of all judicial directives limiting its operations. It is the singular contention of the learned counsel for the additional 9th respondent that Ext.P8 judgment was rendered by a learned Division Bench of this Court when the stay imposed by another learned Division Bench of this Court against the enforcement of amended Rule 185 was in force. Eventually, the learned counsel would contend that in terms of the present Sub-Rules (3) to (6) of Rule 185, Exts. P7 and P9 Sub-Rules concerning the internal ratio to be maintained among different feeder categories cannot be pressed into service.

17. Sri George Poonthottam, the learned Standing Counsel for respondents 1 to 3, has strenuously opposed the contentions of the petitioners. Initially, he has contended that in terms of Section 69 of

the Kerala Co-Operative Societies Act, 1969, ('the Act' for brevity) the petitioners have an efficacious alternative remedy as has been clearly established by this Court in *Prakasini v. Joint Registrar*³ and *Raveendran v. State of Kerala*⁴. In furtherance of the submissions made by Sri. Elvin Peter P.J., the learned counsel for the additional 9th respondent, he has also submitted that despite the amendment to Rule 185 on 28.04.1999, until 2011 either this Court or the Hon'ble Supreme Court had kept in abeyance the operation of the amended provision. Under those circumstances, the respondent Bank did not have any other option than following the then existing statutory provisions concerning either the recruitment or promotions.

18. The learned counsel for the respondent Bank has also contented that when the amended Rule 185 has come into full operation, the subordinate legislation brought out by the respondent Bank by way of sub-delegation, as approved by the Registrar would automatically get effaced, thus losing any force of enforceability. According to him, they did not require any specific challenge to be laid against, nor are they required to be held invalid by any competent

³ 2006 (1) KLT 199

⁴ 2007 (3) KLT 558

court, because their invalidity becomes inevitable by operation of law. The learned counsel has also contended that Ext.P8 judgment rendered by the Division Bench was based on unamended Rule 185.

19. In expatiation of his submissions, Sri George Poonthottam would contend that the ratio is a precedent to the extent it actually decides, especially with reference to the facts of the matter and the statutory position existing then. Once it is admitted that either the Act or the Rule has suffered a change by way of amendment or otherwise, it is incumbent for the Court to take into account only the said regnant Rule for determining the rights of the respective parties notwithstanding contrary judgments or Rulings earlier which do not, in his contention, have any manner of application subsequently.

20. Specifically addressing the issue of the respondent Bank effecting promotions in terms of interim directions given by this Court in the present writ petition, the learned counsel would contend that the respondent Bank has strictly complied with the statutory mandate and there is no violation of whatever nature. The learned counsel has also drawn my attention to Ext.R7 (c) judgment rendered by a learned Division Bench of this Court, to which the respondent Bank is a party,

and has contended that the Division Bench while approving the judgment of the learned Single Judge has further directed that since the qualifying tests have been conducted and the results have also been published, all that is required is that the promotions are to be effected in accordance with law.

21. Laying emphasis on the expression 'in accordance with law', the learned counsel would contend that the respondent Bank has followed the amended Rule 185 and effected the promotions in terms thereof.

22. In reply, Sri. P.N. Mohanan, the learned counsel for the petitioners, has submitted that Rule 185 has two limbs. According to him, latter part of Rule 185 (1) mandates that the feeder categories for the purpose of Rule 185 shall be specified by the Society by framing suitable regulations with the approval of the Registrar. According to the learned counsel, Ext.P7, thus, contains those regulations which have received the approval of the Registrar. The learned counsel has also contended that to this day, they have not been disturbed. He has also submitted that Ext.P7 suffered another amendment as could be seen from Ext.P9 as recently as in 2013. The

exclusion, if any, that has been carved out in sub-Rules (3) to (5), contends the learned counsel, would be confined to direct recruitment, but not to the promotees who remained unaffected to have the benefit of whatever statutory position that has been prevailing in terms of Ext.P7 Feeder Category Regulations.

23. Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent Bank, as well as the learned counsel for the additional 9th respondent, apart from perusing the record.

24. The issues to be addressed in this writ petition are:

1. Whether the Feeder Category Sub- Rules still hold the field beyond 28.04.1999 when Rule 185 of the Rules suffered an extensive amendment, or in the alternative, from 21.04.2011, when the SLP filed before the Hon'ble Supreme Court questioning the vires of the amendment of Rule 185 was dismissed as withdrawn?
2. Whether despite the amendment of Rule 185, is it obligatory on the part of any aggrieved person to assail either the Feeder Category Sub-Rules or Ext.P8 judgment to take advantage of the amended Rule 185?
3. Whether Ext.P8 judgment rendered by the learned Division Bench still has any precedential value or binding force vis-a-vis the administrative action in terms of the administrative measures taken by the respondent Bank for promoting certain employees in terms of the amended Rule 185 of the Rules?

4. Is it mandatory to have secondary legislation in place to enforce the primary legislation, which has, in fact, authorized the Executive to frame appropriate rules, regulations, etc., to give effect to the substantive provisions of the primary legislation?
5. Has the writ petition barred by alternative remedy?
6. Is the third petitioner, a Union, disentitled to file a writ petition espousing the cause of workmen, its members?

In re, Issue No.I:

25. The gravamen of the entire controversy is whether the amended Rule 185 abrogates the Feeder Category Sub-Rules insofar as the promotional post of Regional Manager is concerned, notwithstanding Ext.P8 judgment. In terms of the Feeder Category Sub-Rules framed by the respondent Bank and the unamended Rule 185(1) of the Rules, to the post of Regional Manager the promotion is to be effected from the cadre of Agricultural Development Officers and Deputy Managers in the ratio of 1:2.

26. It is the grievance of the petitioners that for many years the respondent Bank had undertaken neither direct recruitments nor promotions, despite the existence of clear vacancies. Eventually, when the Bank effected promotions through Ext.P11, especially in the

face of interim direction given by this Court on 04.02.2015, it has promoted only from one feeder category to the exclusion of other feeder categories. According to them, it is in gross violation of Feeder Category Sub-Rules and also Ext.P8 judgment rendered by the learned Division Bench of this Court.

27. The defence set up by the respondent Bank as well as the other employees who took benefit under Ext.P11 is that the Feeder Category Sub-Rules no longer hold the field, especially in relation to the promotional post of Regional Managers. It is due to the amendment to Rule 185 of the Rules effected on 28.04.1999.

28. In the light of the above rival contentions, evidently the fulcrum of the entire controversy is Rule 185 of the Rules and its efficacy vis-a-vis the Feeder Category Sub-Rules, the incidental question being the binding nature of Ext.P8 judgment in the face of the amendment. It is profitable, in this context, to extract the amended Rule 185, which reads as follows:

185. Promotion.- (1) Subject to the provisions of sub-rules (2), (3) and (4), appointments to the categories of posts in a society, other than those mentioned in sub-rules (2), (3) and (4) shall be made by promotion, on the basis of seniority in the feeder category. The feeder categories for this purpose shall be specified by the society by framing suitable

regulations, with the approval of the Registrar.

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(2) Substantive vacancies in the following posts shall be filled up by promotion and direct recruitment in the ratio of 3:1 namely:-

- i. Accounts Officer in the Kerala State Co-Operative Bank Ltd.;
- ii. Branch Manager and equivalent posts in the District Co-Operative Banks;
- iii. Deputy Manager in the Kerala State Co-Operative Agricultural and Rural Development Bank;
- iv. Assistant Secretary/Manager and equivalent posts in Primary Co-Operative Societies and Urban Banks having a deposit of more than 10 crores;

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(3) Substantive vacancies in the following posts shall be filled up by promotion and direct recruitment in the ratio of 1:1 namely:-

- i. Deputy General Manager in the Kerala State Co-Operative Bank and in the District Co-Operative Banks;
- ii. Administrative Officer and Regional Manager and equivalent posts in Kerala State Co-Operative Agricultural and Rural Development Bank Ltd.;

(4) Substantive vacancies in the following posts shall be filled up only by direct recruitment.

- i. General Manager in the Kerala State Co-Operative Bank and in the District Co-Operative Banks;
- ii. General Manager in the Kerala State Co-Operative Agricultural and Rural Development Bank.

(5) Selection of candidates to the posts to be filled up by promotion under sub-rule(2) shall be made from the feeder category in accordance with merit and ability to be assessed through a qualifying examination:

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(6) Selection of candidates to the posts to be filled up by promotion under sub-rule (3) and to all the higher posts, if any, in between to the posts mentioned under sub-rule (2) and sub-rule (3) shall be made from among those who have passed the qualifying examination in accordance with the seniority in the feeder category.

XXXXXXXXXXXXXXXXXXXXXXX"

(emphasis added)

29. It is not in dispute that in 1999, O.P. No. 21194 of 1999 and a host of other OPs were filed by various persons assailing vires of the Executive in effecting amendment to Rule 185 of the Rules. It is submitted at the Bar that a learned Division Bench of this Court initially stayed the operation of the amendment. The learned Division Bench has, however, eventually dismissed all the OPs through its judgment dated 19.12.2007. Soon thereafter, as can be seen, some of the petitioners, aggrieved, carried the matter in Special Leave to the Hon'ble Supreme Court. Again from 2007 to 2011, the Hon'ble Supreme Court continued the stay against the enforcement of the amendment. Eventually, in 2011 all the Special Leave Petitions were

dismissed as withdrawn. Thus, whatever cloud cast on the amendment finally came to be lifted in 2011. Under these circumstances, in the interregnum the respondent Bank inevitably regulated its affairs, especially concerning the promotions, in terms of the unamended Rule 185 of the Rules. Indeed, Ext.P8 judgment, which seems to be the flagship of the arguments advanced by the learned counsel for the petitioners, was rendered taking into account only the unamended Rule 185.

30. If we examine the sub-Rule 1 of Rule 185, it mandates that appointments to the categories of posts in a society shall be made by promotion, on the basis of seniority in the feeder category. The feeder categories for the purpose of promotion shall be specified by the Society by framing suitable regulations, with the approval of the Registrar. The learned counsel for the petitioner has latched onto the last limb of the sub-Rule (1) to contend that Ext.P7 Sub-Rules were framed under the very Rule 185 and that they need to be adhered to.

31. Appointments to the posts of various categories specified under sub-Rules (2), (3) and (4) of Rule 185 have been exempted from the purview of sub-Rule (1). The learned counsel for the petitioner, on

one hand, has contended, rightly in my view, that Rule 185 exclusively caters to the promotions in the Society, though it incidentally specifies ratio between the in-service candidates to be promoted and the candidates to be directly recruited. On the other hand, he has, in my view contradicting himself, submitted that exclusion of sub-Rules (2), (3) and (4) as provided under sub-Rule (1) only applies to the direct recruitment. I am afraid this plea of the learned counsel for the petitioners is self-contradictory and, therefore, cannot be countenanced.

32. Sub-Rule 2 mandates that the post of Accounts Officer, Branch Manager, Deputy Manager and Assistant Secretary/ Manager shall be filled up by promotion and direct recruitment in the ratio of 3:1. Sub-Rule (3) mandates that the vacancies in the post of Deputy General Manager, Administrative Officer and Regional Manager, as well as any other equivalent posts, shall be filled up by promotion and direct recruitment in the ratio of 1:1. Insofar as sub-Rule (4) is concerned, all the substantive vacancies in the post of General Manager shall be filled up only by direct recruitment.

33. It is pertinent to observe that sub-Rule (5) of Rule 185

stipulates that selection of candidates to the posts to be filled up by promotion under sub-Rule (2) shall be made from the feeder category in accordance with merit and ability to be assessed through a qualifying examination. Proviso is to the effect that even when an employee is under probation or when he does not possess the minimum educational qualification, he is still entitled to take the qualifying examination for the promotional post.

34. Sub-Rule (6) of Rule 185 is to the effect that the selection of candidates to the post to be filled up by promotion under sub-Rule (3) and to all the higher posts, if any, in between the posts mentioned under sub-Rule (2) and (3), shall be made from among those who have passed the qualifying examination in accordance with the seniority in the feeder category.

35. The issue can be put in proper perspective if we examine the statutory position prior to the amendment of Rule 185 of the Rules. In fact, the unamended Rule 185 was as follows:

"185. Promotion-(1) Subject to the provisions of sub-rule 2 appointments to higher categories of service in a society other than those mentioned in sub-rule (2), shall be made by promotion on the basis of seniority in the feeder category. The feeder category for this purpose shall be prescribed by the society by framing suitable subsidiary regulations with the approval of the Registrar.

(2) Substantive vacancies in the posts mentioned below shall be filled up by promotion and direct recruitment in the ratio 3:1.

- i. Accounts Officer in the Kerala State Co-Operative Bank
- ii. Branch Manager and equivalent posts in the District Co-Operative Banks;
- iii. Deputy Manager in the Kerala State Co-Operative Agricultural and Rural Development Bank.
- iv. Assistant Secretary/Manager in Primary Co-Operative Societies and Urban Banks having a deposit of more than 10 crores.

(3) Selection of candidates to the posts to be filled by promotion under sub-rule (2) shall be made in accordance with merit and ability to be assessed through a competitive examination, seniority in the feeder category being considered only where merit and ability being equal.

(4) It shall be competent for the committee of a society to relax the qualifications other than the competitive examination specified in sub-rule (3) of an employee for the purpose of promotion, in deserving cases, whether appointed before or after the commencement of these rules, with prior approval of the Registrar and for reasons to be recorded.

(5) The Registrar shall have power to issue guidelines for adoption by the Co-Operative Societies with regard to fixing of seniority/inter se seniority of employees of different categories and assessment of merit and ability of employees for promotion wherever necessary."

(emphasis added)

36. As can be seen from the above provision, all promotions to the posts other than those mentioned under sub-rule (2) are to be made on the basis of seniority in the feeder category; the said feeder

category shall be prescribed by the society by framing suitable subsidiary regulations. Indeed, these subsidiary regulations, though have statutory flavour, are at best a piece of sub-delegated legislation, even if we chose to put them on the highest pedestal. There is no gainsaying the fact that Ext.P7 Feeder Category Sub-Rules are the ones that have come into existence in that process. As per sub-rule (3), to the post of Regional Manager promotion is to be effected from the feeder categories of Agricultural Development Officers and Deputy Managers in the ratio of 1:2. Indisputably, the promotional post of Regional Manager or for that matter Deputy General Manager, specified in the sub-rule (3) finds place under sub-rule (2), the exempted category in the unamended Rule 185.

37. In the same reckoning, if we examine the amended Rule 185 of the Rules, the posts referred to above find themselves clearly exempted from the operation of Rule 185 (1) of the Rules.

38. From the above delineation of the statutory position, the following points emerged:

1. That the posts specified under the sub-Rules (2) to (4) of the regnant Rule 185 have been taken away from the purview of sub-Rule (1);

2. That specifying the feeder categories for the promotional purposes by framing suitable regulations with the approval of the Registrar, as has been mandated in the last limb of Rule 185(1), does not apply to the posts specified under sub-Rules (2) to (4);
3. That Sub-Rules (2) to (4) have specific method of promotion by way of qualifying examination and merit as has been stipulated under sub-Rules (5) and (6). In other words, it is the procedure mandated under sub-Rules (5) and (6) that applies for the promotional posts of Regional Manager and Deputy Manager;
4. From the unamended Rule 185, only those posts that have been mentioned in sub-rule (2) thereof have been exempted from the purview of the feeder category to be prescribed by the Society by framing subsidiary regulations with the approval of the Registrar, though; and
5. Evidently both the posts of the Regional Manager and the Deputy General Manager were not in the protective umbrella of the exempted sub-rule (2).

In re, Issue No.II:

39. Now, the natural corollary to the above disposition is whether the framing of suitable regulations or subsidiary regulations, as the case may be, in the present instance Ext.P7 Sub-Rules, still has any relevance concerning the posts specified in Sub-Rules (2) to (4). I am afraid the answer is in the negative. It is already observed that the regulations, if any, will have an impact on all other posts than those

mentioned in sub-Rules (2) to (4). At any rate, Ext.P7 Sub-Rules were brought into existence in terms of unamended Rule 185; with the amendment, in my considered view, the statutory base for their existence and validity stood withdrawn. In that event, they automatically stand superseded and effaced owing to the subsequent statutory position.

40. In the unamended Rule 185 of the Rules (1999) has employed the expression 'subsidiary regulations'; the amended Rule 185 of the Rules has employed the expression 'regulation' shorn of any qualifying adjective. There is any amount of conceptual confusion involving cognate expressions such as rule, order, regulation, etc. Section 3(51) of the General Clauses Act, 1897, defines 'rule' to mean a rule made in exercise of a power conferred by any enactment and shall include a regulation made under any enactment.

41. In his celebrated treatise, Principles of Statutory Interpretation (Pg.970, 2010 Ed., Butterworths Wadhwa), the learned author Justice G.P.Singh has observed thus:

"Delegated legislation permitted by enabling Acts appears under different names, without there being any clear-cut demarcation between all of them. 'Rule' and 'Order' are by far most common names under which delegated legislation is

permitted...But as expressed in the definition of 'rule', a 'regulation' may be made as a rule and then it partakes the character of a rule. when power to make delegated legislation is conferred on different authorities by the same Act, the words 'rules' and 'regulations' may be utilised to distinguish the source and to sub-ordinate the latter to the former. But sometimes the same authority may be authorised to make 'rules' in respect of certain matters and 'regulations' in respect of others and the distinction, if any, may lie in the conditions under which these powers may be exercised. The Report of the Committee on Minister's Powers, 1932, deprecated the indiscriminate use of these expressions and suggested (p.64): "The expression 'regulation' should be used to describe the instrument by which the power to make substantive law is exercised, and the expression 'rule' to describe the instrument by which the power to make law about procedure is exercised. The expression 'order' should be used to describe the instrument of the exercise of (A) executive power, (B) the power to take judicial or quasi-judicial decisions." This suggestion, however, has neither been adopted in England nor in India. For example, the word 'order' has not been only used to signify the power of taking executive, judicial or quasi-judicial decisions, but has also been used to confer extensive power of making delegated legislation."

42. Further, Wade & Forsyth's Administrative Law (P.867, 9th

Edn. Oxford) has echoed the same opinion in the following words:

"Parliament follows no particular policy in choosing the forms of delegated legislations, and there is a wide range of varieties and nomenclature. An Act may empower an authority to make regulations, rules or bye-laws, to make orders, or to give directions. Acts often empower the Crown to make Orders in Council, and particularly where the subject-matter falls within the province of no designated minister. Such orders must be distinguished from Orders in Council made in the exercise of the royal prerogative.: the former are valid only in so far as they conform to the power conferred by

Parliament; the latter are valid only in so far as they fall within the Crown's remaining prerogative powers at common law.

The Committee on Ministers' Powers recommended that the expressions 'regulation', 'rule' and 'order' should not be used indiscriminately, but that 'rule' should be confined to provisions about procedure and that 'order' should be used only for executive acts and legal decisions. But the nomenclature in practice honours these distinctions nearly as much in the breach as in the observance."

43. Once any subordinate legislation draws its sustenance from a substantive provision, its existence is coterminous with that substantive provision. In other words, once the principal provision gets obliterated, all other consequential statutory measures flowing therefrom, including the subordinate legislation, also stand nullified, albeit subject to Section 6 of the General Clauses Act, provided it is applicable. I am, therefore, constrained to hold that the contention of the learned counsel for the petitioners that Ext.P7 Sub-Rules are required to be declared invalid or inoperative by a competent forum, cannot be sustained. They have been, to reiterate, effaced from the statute book by operation of law.

44. I may round up the discussion by once again quoting from Wades & Forsyth's Administrative Law (P.873), wherein the learned authors have observed thus:

“When an Act is repealed, any rules or regulations made under it cease to have effect, despite the statutory saving clause for things done while the Act was in force. But where an Act is repealed and replaced, with or without modification, rules, etc. made under it are treated as if made under the new Act in so far as that Act gives power to make them. Rules also continue in force notwithstanding any change in the person or body constituting the rule-making authority.”

(emphasis added)

45. At the cost of repetition it is to be averred that the efficacy and even the existence of the sub-rules or regulations is coterminous with the substantive rule in the context of delegation and sub-delegation. It does not, going by settled principles of law, admit of any controversy that Section 6 of the General Clauses Act does not have any application to sub-ordinate legislation. The Hon’ble Supreme Court in *Sushil Ansal v. State*⁵, has observed that Section 6 of the General Clauses Act does not have any application to, for instance, a rule, a notification or a circular whether statutory or otherwise. It is confined to repeal of any enactment already in existence or made after the enactment of the General Clauses Act, 1897.

In re, Issue No.III:

⁵ (2014) 6 SCC 173

46. Ext. P8 is the judgment of a learned Division Bench in W.A. No.1312 of 2004 arising out of O.P. No.29263 of 2000. The petitioners in the said OP were working as Deputy Managers in a Co-operative Bank. A Deputy Manager can be promoted as a Regional Manager in terms of Rule 3 of the Feeder Category Sub-Rules framed under Rule 185 (1) (unamended) of the Rules. Rule 3 mandates that Agricultural Development Officers and Deputy Managers ought to be promoted as Regional Managers in the ratio of 1:2. The petitioners' grievance was that the Bank was effecting promotions without adhering to the ratio.

47. In OP No.29263 of 2000 a learned Single Judge has directed the Bank to adhere to the ratio prescribed in Rule 3 of the Sub-Rules. In appeal it was upheld. Now, the contention of the learned counsel for the petitioners is that so long as the judgment of the learned Division Bench in Ext.P8 stands undisturbed, it binds the authorities, as well as this Bench, and that no contrary stand can be taken.

48. The proposition, initially enunciated by Lord Halsbury, that a case is only an authority for what it actually decides, but not what logically follows from it needs no precedential prop, for it is too well

established to be contradicted. Equally well settled is the principle that judgments are not to be construed as statutes.

49. In *Union of India v. Amrit Lal Manchanda*⁶, the Hon'ble Supreme Court has held thus:

"17. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

18. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.

* * *

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

50. In *Govt. of A.P. v. B. Satyanarayana Rao*⁷, the Hon'ble Supreme Court has held that a decision by two Judges has a binding effect on another coordinate Bench of two Judges, unless it is demonstrated that the said decision by any subsequent change in law

⁶ (2004) 3 SCC 75

⁷ (2000) 4 SCC 262

or decision ceases to laying down a correct law. In the present instance it is not in dispute, thus obviating the need of any demonstration, that there is a change in the law.

51. With the application of law to a given set of facts, a decision rendered by a Court of Record remains a precedent for what it enunciates, so long as neither of the two contributory factors—law and facts—changes. But, once either the law or the facts change, the substratum of the decision is taken away, thus denuding the decision of its precedential value.

52. In the present instance, in the light of the amendment to Rule 185 of the Rules, the constitutional validity of which has already been upheld, the Sub-Rules framed under the said Rule in its pre-amendment phase cannot be allowed to strike a discordant note; once they are out of tune with the principal provision, the statutory dissonance is not allowed to prevail. Hence, their effacement by operation of law.

In re, Issue No.IV:

53. It is also the contention of the learned counsel for the petitioner that Ext.R7(D) Model Recruitment Rules of the respondent

Bank are only draft regulations, and that they have not yet been finally approved to have any statutory force. It is further relevant to address one of the contentions raised by the learned counsel for the petitioner: Ext.P7 sub-rules underwent an amendment as recently as in 2013, as could be seen from Ext.P9. According to him, if there were to be any obliteration of the said sub-rules, the authorities ought not to have taken the trouble of amending them. Indeed, the contention has sufficient force; however, the question is, can an executive act by way of sub-delegation nullify the impact of 'primary' delegated legislation?

54. A perusal of Exhibit P9 makes it clear that the amendment was only for effecting promotions to the existing employees in the bank. It has further been specifically laid down that the feeder category sub-rules including the amendment in question will cease to exist on the approval of recruitment rules by the PSC and thereafter the promotion and recruitment shall be done under the provisions in the approved recruitment rules.

55. It needs no elaboration to hold that Article 309 of the Constitution of India does not have application in relation to the

service matters of the respondent Bank. Nevertheless, the respondent Bank is an employer having certain inherent powers vis-à-vis its employees. An employer can make appointments even in the absence of any statutory rules or regulations in place, by exercising its inherent powers of being the paymaster, provided it notifies the manner and method of recruitment in advance and does not whimsically change its policy midway. The employer is essentially required to be consistent in its approach in selecting its workforce, and ought not to give in to the vice of caprice, adhocism or arbitrariness, a la pick and choose.

56. Well established is the proposition of law that draft rules can be acted upon to meet urgent situations when no rule is operating. In *Abraham Jacob v. Union of India*⁸ the Hon'ble Supreme Court has held that where draft rules have been made, an administrative decision taken to make promotions in accordance with the draft rules which were to be finalised later on, was valid. Similarly in *Vimal Kumari v. State of Haryana*⁹ it is held that it is open to the employer (in that case, the Government) to regulate the service conditions of the

⁸ (1998) 4 SCC 65

⁹ (1998) 4 SCC 114

employees for whom the rules were made, even if they were in their draft stage, provided there is a clear intention on the part of the Government to enforce those Rules in the near future.

57. In the same breath, I nevertheless hasten to add that once valid rules or regulations are in place, they cannot be displaced by the draft rules, which are yet to acquire the statutory status. Put differently, the draft rules are meant to fill the statutory vacuum, but not for statutory substitution, for which purpose the draft rules are to mature into statutory rules.

58. In the present instance, R7 (d) Model Recruitment Rules may have been relied on by the respondent Bank, if Ext.P7 Feeder Category Sub-Rules framed under the unamended Rule 185 (1) are not holding the field. It has already been held that insofar as the posts mentioned in sub-rules (2) to (4) of the regnant Rule 185 are concerned, the said sub-rules have no application.

59. If we consider Ext.P9 amendment to the Feeder Category Sub-Rules under unamended Rule 185 (1) of the Rules, it emerges that to the extent the said sub-rules do not come in conflict with the amended Rule 185, they can still be relied on, as the very respondent

Bank undertaken to the said effect. Labouring to make it lucid, I may further observe that Ext.P7 sub-Rules stand effaced to the extent they come in conflict with the amended Rule 185 of the Rules; conversely, the said sub-rules need to be followed to the extent they do not come in conflict with the regnant Rule 185; and, Exhibit R7 (d) Model Recruitment Rules can be applied in the interstices left by the amendment to the rule and the consequential inapplicability of Ext. P7 sub-Rules.

In re, Issue No.V:

60. The writ petition having been filed more than a year ago, and with many subsequent developments, especially, based on the interim directions in the matter, I do not think it is appropriate the issue of alternative remedy now, too late a stage in the course of judicial proceedings. Even otherwise, it is not a question of inherent lack of jurisdiction, but that of an alternative remedy. Legions are the precedents in this regard that it is only a self-imposed limitation concerning adjudication under Article 226 of Constitution of India. I, therefore, reject the contention of the respondents on the issue of alternative remedy.

In re, Issue No.VI:

61. A Society of people registered under the provisions of Societies Registration Act or any other analogous enactment is a juristic person. Courts have consistently held that a writ petition on behalf of a registered society espousing the cause of its members is maintainable. It is usually the society that had been registered prior to the accrual of cause of action that could maintain the writ petition.

62. Insofar as the trade unions are concerned, Section 36 of the Industrial Disputes Act, 1947 facilitates that a workman being a party to a dispute shall be entitled to be represented in any proceeding under the Act by any member of the executive or other office-bearer of a registered trade union of which he is a member or by any member of the executive or other office-bearer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated.

63. It may be necessary to examine the ratio of T.N. Civil Supplies Corpn. Ltd., (supra) relied on by the learned counsel for the additional fifth respondent. The facts of the case are that when the employer terminated the services of a number of workmen, the Union

filed a writ petition claiming a blanket injunction that the workers should not be relieved from their work. It was dismissed and the dismissal was affirmed in an intra-court appeal. It was held that the employees whose services were terminated would take such action as was available to them in accordance with law. The Division Bench has, however, observed that the appeal filed by the Union had to await the outcome of the writ petition filed by the employer against the Inspector of Labour. The Division Bench also agreed with the conclusion of the learned Single Judge on the issue of standing. When the matter was carried in special leave, the Hon'ble Supreme Court has held that it finds no infirmity in the reasoning of the Division Bench warranting interference.

64. As can be seen from the above factual context, the Union sought a blanket injunction against the relieving of the workmen. The fact that the very workmen too filed individual writ petitions cannot be lost sight of. Further, the grievance is that of a few individual workmen, who too are well-equipped to defend themselves. The decision under reference has never laid down an invariable principle of law that under all circumstances no union or association can

represent the interests of its member workmen or employees collectively.

65. In my considered view, any proposition that a representative association or union cannot represent the cause of its members across the board is too broad a proposition of law to be accepted. Indeed, there is every justification to hold that an association, registered though, cannot champion the cause of an individual member who does not suffer any legal limitation to have his or her grievance redressed. In the present instance, the third petitioner has sought a direction to the respondent bank to fill up all the vacancies expeditiously, thus representing the interests of all the member employees broadly.

66. It is only apt to quote the resonant reasoning of the Hon'ble Supreme Court on the issue of standing in *Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India*¹⁰:

"62. [O]ur current processual jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented, and envisions access to justice through "class actions", "public interest litigation" and "representative proceedings". Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy.

¹⁰ (1981) 1 SCC 246

We have no hesitation in holding that the narrow concept of "cause of action" and "person aggrieved" and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney-General has taken no objection to a non-recognised association maintaining the writ petitions."

67. Putting the whole issue in perspective, this Court observes that the Feeder Category Sub-Rules framed under the unamended Rule 185 (1) of the Rules do not hold the field concerning the promotional posts which find exempted from the operation of sub-rule (1) of the amended Rule 185 of the Rules. Since the effacement of the Feeder Category Sub-Rules is by way of statutory operation, they do not require any judicial invalidation. Further, Ext.P8 judgement cannot be a precedent for an issue arising on application of the regnant statutory rules, which were not even in existence when the said judgment was rendered. Indeed, in the light of inapplicability of Ext.P7 sub-rules, recourse to Ext.R7 (d) Model Recruitment Rules by the respondent Bank cannot be found fault with.

In the above facts and circumstances, I hold that the writ petition is without merit and is accordantly dismissed. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.