

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 33147 of 2014 (P)

PETITIONERS:

1. **MAYA S.,
JUNIOR CLERK
AYMANAM VILLAGE SERVICE CO-OPERATIVE BANK LTD NO.750
AYMANAM, KOTTAYAM - 686 015.**
2. **ASISH.S., JUNIOR CLERK
AYMANAM VILLAGE SERVICE CO-OPERATIVE BANK LTD NO.750
AYMANAM, KOTTAYAM - 686 015.**
3. **SANTHOSH.P.C, JUNIOR CLERK
AYMANAM VILLAGE SERVICE CO-OPERATIVE BANK LTD NO.750
AYMANAM, KOTTAYAM - 686 015.**

**BY ADVS.SRI.P.RAVINDRAN (SR.)
SRI.M.R.SABU**

RESPONDENTS:

1. **AYMANAM VILLAGE SERVICE CO-OPERATIVE BANK LTD.NO.750
REPRESENTED BY ITS SECRETARY, AYMANAM
KOTTAYAM - 686 015.**
 2. **THE DEPUTY REGISTRAR/SECRETARY,
CO-OPERATIVE SERVICE EXAMINATION BOARD
THIRUVANANTHAPURAM - 695 001.**
- * ADDL. R3 TO R6 ARE IMPEADED**
3. **RESHMY K.GOPAL
THORANATHU HOUSE, AYMANAM PO.,
KOTTAYAM - 686 515.**
 4. **ARYA ANIRUDHAN
OLICKAL HOUSE, ELAMKADU PO.,
KOTTAYAM - 686 514.**

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5. VIPIN K.G.

MANGATTU, PLASSANAL PO., KOTTAYAM - 686 579.

*** ADDL.R3 TO R5 IMPEADED AS PER ORDER DATED 28.01.2015 IN IA 17447/14.**

**** ADDL. R6 IS IMPEADED**

**6. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
KOTTAYAM**

**** ADDL.R6 IMPEADED AS PER ORDER DATED 28.01.2015 IN IA 1036/15.**

R1 BY ADVS. SRI.T.A.SHAJI (SR.)

SMT.NAMITHA JYOTHISH

R2 BY ADV. SMT.RASHMI. K.V., SC, CO. OP. SERVICE EXAMINATION BOARD

R3 TO R5 BY ADV. SRI.P.V.BABY

R6 BY GOVERNMENT PLEADER SRI. GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1 :** TRUE COPY OF THE APPOINTMENT ORDER DATED 24.6.2011.
- EXT. P2 :** TRUE COPY OF RELEVANT EXTRACT OF THE FEEDER CATEGORY.
- EXT. P3 :** TRUE COPY OF ORDER OF THE PROMOTION OF THE PETITIONERS DATED 30.08.2014.
- EXT. P4 :** TRUE COPY OF COMMUNICATION DATED 24.11.14.

RESPONDENT(S)' EXHIBITS:-

- EXT. R1(a) :** TRUE COPY OF THE REQUEST DATED 7.11.2014 ALONG WITH THE RESOLUTION SUBMITTED BEFORE THE JOINT REGISTRAR
- EXT. R1(b):** TRUE COPY OF THE COMMUNICATION OF THE 2ND RESPONDENT DATED 21.10.2014
- EXT. R5(a) :** TRUE COPY OF THE NOTIFICATION DATED 7.10.2013 ISSUED BY THE 2ND RESPONDENT.
- EXT. R5(b) :** TRUE COPY OF THE CATEGORY WISE RANK LIST PUBLISHED BY THE 2N RESPONDENT BASED ON THE TEST AND INTERVIEW
- EXT. R5(c) :** TRUE COPY OF THE NOTICE ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIEITIES KOTTAYAM DATED 14.11.2014
- EXT. R5(d):** A TRUE PHOTOSTAT COPY OF THE APPOINTMENT ORDER DATED 8.12.2014 ISSUED BY THE 1ST RESPONDENT
- EXT. R5(e):** A TRUE PHOTOSTATE COPY OF THE ORDER DATED 5.1.2015 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIEITIES (G) KOTTAYAM

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO.33147 OF 2014

Dated this the 10th day of March, 2015

JUDGMENT

The petitioners were appointed as Attenders/Salesman in the first respondent bank by Ext. P1 proceedings dated 24.06.2011. Ext. P2 Feeder Category Rules provided that only Attenders/Salesman who have completed three years in service are eligible for promotion to the post of Junior Clerk. It was also specified that such incumbents should have passed SSLC and also J.D.C.

2. The bank thought it fit to fill up the post of three Junior Clerks which were vacant. A resolution was therefore taken on 26.11.2012 to request the State Co-operative Service Examination Board to complete the exercise for appointment. It may at once be noticed that the petitioners had not completed three years of service as Attenders/Salesman on 26.11.2012. The State Co-operative Service Examination Board accordingly issued Ext. R5(a) notification dated 07.10.2013 inviting applications from eligible candidates. The Examination Board conducted an examination on 08.03.2014

and the ranked list was published on 17.09.2014. The bank in the meantime hurriedly promoted the petitioners as Junior Clerks by Ext. P3 proceedings dated 30.08.2014. This was allegedly on the basis of a resolution of the bank dated 25.08.2014. The promotion was effected with effect from 01.09.2014 itself.

3. Firstly such an exercise could not have been done after the Examination Board invited applications and conducted an examination. Secondly the petitioners had not completed three years on the date of the original request by resolution dated 26.11.2012. Section 80B of the Kerala Co-operative Societies Act, 1969 (the 'Act' for short) enables the Examination Board to fill up the post of Junior Clerks by selection. The necessity to accommodate the persons from the ranked list led to the reversion of the petitioners by Ext. P4 order.

4. The Joint Registrar has also found that the petitioners are liable to be reverted to give way to persons to be advised from the rank list. I do not find any infirmity in the orders impugned in the writ petition. Rule 185 of the Kerala Co-operative Societies Rules, 1969 (the 'Rules' for short) is relied on by the petitioners. It is asserted that the post of Junior Clerks can be filled up only by promotion as per the

said Rule. It should be noted that the language of Section 80B of the Act should be preferred to Rule 185 of the Rules if there is an ambiguity. Secondly the Rule 185(10) of the Rules specifying a ratio in the post of Clerk was brought in by amendment dated 26.11.2014. But Ext. R5(a) notification inviting applications by the Examination Board is dated 07.10.2013 and much prior. It can therefore safely be concluded that Rule 185(10) of the Rules does not apply to the present exercise of appointing additional respondents 3 to 5.

5. It transpires that the bank has sought re-classification taking note of its profit in business. More posts of Junior Clerk are expected by such re-classification if sanctioned. The petitioners contend that they can also be accommodated after additional respondents 3 to 5 in case re-classification is done. The Joint Registrar shall bestow his attention to Ext. R1(a) put in by the bank in this regard. Final orders of re-classification shall be passed within a period of two months from today.

The writ petition is dismissed. No costs.

**V. CHITAMBARESH
JUDGE**

DCS