

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 34707 of 2014 (K)

PETITIONER:

PRAMOD.K.O., S/O.CHACKO,
KODIYANTHURUTHEL HOUSE,
ERAVIMANGALAM POST, MANJOOR VILLAGE,
VAIKOM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.P.V.BABY

RESPONDENTS:

1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), COLLECTORATE BUILDING, KOTTAYAM, PIN 686 002.
2. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT DEPARTMENT OF CO-OPERATION, GOVT.SECRETARIAT, THIRUVANANTHAPURAM 695 001.
3. THE MANJOOR SERVICE CO-OPERATIVE BANK LTD.NO. K.73 REPRESENTED BY ITS SECRETARY, MANJOOR P.O., KURUPPANTHARA, KOTTAYAM DISTRICT, PIN 686 603.
4. THE MANAGING COMMITTEE OF THE MANJOOR SERVICE CO-OPERATIVE BANK LTD.NO.K.73, REPRESENTED BY ITS PRESIDENT, MANJOOR P.O., KURUPPANTHARA, KOTTAYAM DISTRICT, PIN 686 603

R4,R3 BY ADV. SRI.P.N.MOHANAN
BY SPECIAL GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-02-2015, ALONG WITH WP(C) NO. 34448/2014 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 COPY OF THE NOTIFICATION DATED 15/11/2014 PUBLISHED BY THE SECRETARY OF 3RD RESPONDENT-BANK IN THE MALAYALA MANORAMA DATED 18/11/14 INVITING APPLICATIONS FOR THE POST OF PEON AND ATTENDER
- EXHIBIT P2 COPY OF THE INTIMATION -CUM-HALL TICKET DATED 6/12/2014 ISSUED TO PETITIONER BY THE SECRETARY OF THE 3RD RESPONDENT-BANK INVITING PETITIONER TO PARTICIPATE IN THE WRITTEN TEST SCHEDULED ON 20/12/14
- EXHIBIT P3 COPY OF THE FIRST RESPONDENT'S ORDER NO.CRP(2) 4894/14//K.DIS DATED 23/10/14 EFFECTING MODIFICATION TO THE STAFF PATTERN OF 3RD RESPONDENT-BANK
- EXHIBIT P4 COPY OF PETITIONER'S APPLICATION DATED 17/12/14 SUBMITTED TO IST RESPONDENT REQUESTING TO STAY ALL FURTHER PROCEEDINGS OF 3RD RESPONDENT BANK PURSUANT TO EXHIBIT P1 NOTIFICATION
- EXHIBIT P5 COPY OF THE RECEIPT DATED 17/12/2014 RECEIVED FROM IST RESPONDENT ,WHILE SUBMITTING EXHIBIT P4 APPLICATION
- EXHIBIT P6 COPY OF NOTIFICATION NO.GO(P) NO.142/2014/CO-OP.DATED 25/11/14 OF 2ND RESPONDENT EFFECTING CERTAIN AMENDMENTS TO THE KERALA CO-OPERATIVE SOCIETIES RULES 1969

RESPONDENT(S)' EXHIBITS

- EXHIBIT R3A A TRUE COPY OF THE POSTS SANCTION ORDER DATED 23.10.2014.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 23rd day of February, 2015

JUDGMENT

The Co-operative Bank issued notification dated 15.11.2014 inviting applications for appointment to the posts of Peon (7 in number) and Attender (1 in number). The notification was issued at a time when Rule 186 of the Kerala Co-operative Societies Rules, 1969 had not been amended. The qualification prescribed therein for appointment to the posts of Peon and Attender was only a pass in standard VII which stated in the notification.

2. But Rule 186 of the Kerala Co-operative Societies Rules, 1969 was amended with effect from 25.11.2014 wherein the qualification prescribed for appointment to the posts of Peon and Attender was again a pass in standard VII. But it was also stipulated in the amended rules that the candidates should not have acquired any Degree. The contention of the petitioners is that even the Degree holders have been considered for appointment to the post of Peon and Attender. This is so notwithstanding the fact that the qualification was altered even before the last date of submission of applications

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as per the notification dated 15.11.2014.

3. The petitioners rely on the following decisions to contend that any change in the recruitment rules should alter the course of selection procedure even.

(i) Bindhu P. Vs. State of Kerala and others [2012 (2) KHC 501(DB)]

(ii) Deepak Agarwal and another Vs. State of Uttar Pradesh and others [2011 (6) SCC 725]

The respondents contend that the selection process should be completed in accordance with the law as it exists at its commencement and rely on the following decisions:

(i) P. Mahendran and others Vs. State of Karnataka and others [AIR 1992 SC 405]

(ii) Asha P. and others Vs. State of Kerala and others [2009 (4) KHC 721(DB)]

4. The relevant files including the ranked list prepared

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for the selection have been made available by the counsel appearing for the bank. I find that neither of the petitioners in these two writ petitions find a place in the ranked list even though they were considered for selection. I also find that none of the appointees have been made parties to these writ petitions even though they would be affected by the verdict. This is undoubtedly a case where the parties have to be relegated to the Co-operative Arbitration Court for adjudication of the dispute.

5. This is a dispute arising in connection with the employment of officers and servants of the Society as envisaged under Section 69(2)(d) of the Co-operative Societies Act, 1969. The Co-operative Arbitration Court can very well consider as to the applicability of the amended rules and also the eligibility of the appointees. I am fortified in this view by the decision in **The Pallichal Farmers Service Co-operative Bank Vs. State of Kerala [2015 (1) KLT 347 (FB)]**. It will be inequitable therefore to adjudicate this dispute in a writ petition without proper persons on the party array.

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6. Much was argued on the basis of the decision in **Akalakunnam Village Service Co-operative Bank Ltd. Vs. Binu N. and others [ILR 2014(4) Ker. 605]**. That was a case where the statutory circulars issued by the government and the Registrar of the Co-operative Societies were openly flouted in the matter of appointment. That is not so in the case in hand where the notification dated 15.11.2014 was strictly in accordance with the rules in vogue. The decision in **ILR 2014(4) Ker 605** is distinguishable and it does not dissuade me from relegating the parties to the Co-operative Arbitration Court.

The Writ Petitions are hence dismissed without prejudice to the right of the petitioners as above.

**V. CHITAMBARESH
JUDGE**

ncd