



2025:KER:30731

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

WP(C) NO. 1928 OF 2022

PETITIONER:

BHANUMATHI T., AGED 59 YEARS
ASSISTANT MANGER (HR), KERALA AGRO MACHINERY
CORPORATION LTD (KAMCO), ATHANI, ERNAKULAM 683 585

BY ADVS.
K.JAJU BABU (SR.)
M.U.VIJAYALAKSHMI
BRIJESH MOHAN

RESPONDENTS:

- 1 STATE OF KERALA
REP.BY SECRETARY TO GOVERNMENT,
AGRICULTURE DEVELOPMENT AND FARMERS WELFARE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001
- 2 KERALA AGRO MACHINERY CORPORATION LTD (KAMCO),
ATHANI, ERNAKULAM 683 585, REP.BY ITS
MANAGING DIRECTOR.
- 3 THE MANAGING DIRECTOR.
KERALA AGRO MACHINERY CORPORATION LTD
(KAMCO), ,ATHANI, ERNAKULAM 683 585.
- 4 SRI. HARIDAS V., PERSONAL SECRETARY,
KERALA AGRO MACHINERY CORPORATION LTD (KAMCO),
KANJIKODE, PALAKKAD 678 621
- 5 SRI. NAVEENRAJ D.S., PERSONAL SECRETARY,
KERALA AGRO MACHINERY CORPORATION LTD (KAMCO),
ATHANI, ERNAKULAM 683 585



2025:KER:30731

6 SRI. RANJITH S., PERSONAL SECRETARY,
KERALA AGRO MACHINERY CORPORATION LTD (KAMCO),
ATHANI, ERNAKULAM 683 585

BY ADVS.

RENJITH THAMPAN (SR.)
V.M.KRISHNAKUMAR

R2 & R3 BY ADVS.M.GOPIKRISHNAN NAMBIAR
K.JOHN MATHAI
JOSON MANAVALAN
KURRYAN THOMAS
PAULOSE C. ABRAHAM
RAJA KANNAN

KRIPA C. NAIR
JAI MOHAN

OTHER PRESENT:

GP- RIYAL DEVASSY,
R6- RENJITH THAMPAN (SR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08.04.2025, ALONG WITH WP(C).26432/2022, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:



2025:KER:30731

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

WP(C) NO. 26432 OF 2022

PETITIONER:

PREETHA P. MENON, AGED 45 YEARS
ASSISTANT MANAGER,
KERALA AGRO MACHINERY CORPORATION LTD.,
ATHANI - ALUVA, ERNAKULAM DISTRICT,
PIN - 683585

BY ADVS.P.K.SURESH KUMAR (SR.)
K.P.SUDHEER
ANJALI MENON

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 KERALA AGRO MACHINERY CORPORATION LTD
REPRESENTED BY ITS MANAGING DIRECTOR,
ATHANI - ALUVA, ERNAKULAM DISTRICT.,
PIN - 683585
- 3 THE MANAGING DIRECTOR
KERALA AGRO MACHINERY CORPORATION LTD
ATHANI - ALUVA, ERNAKULAM DISTRICT,
PIN - 683585
- 4 HARIDAS. V, DEPUTY MANAGER,
KERALA AGRO MACHINERY CORPORATION LTD.,
NEW INDUSTRIAL DEVELOPMENT AREA,
MENON PARA ROAD, KANJIKODE, PALAKKAD,
PIN - 678621



2025:KER:30731

5 RANJITH. M.V., DEPUTY MANAGER,
KERALA AGRO MACHINERY CORPORATION LTD.,
ATHANI - ALUVA, ERNAKULAM DISTRICT,
PIN - 683585

R2 & R3 BY ADVS.
M.GOPIKRISHNAN NAMBIAR
K.JOHN MATHAI
JOSON MANAVALAN
KURRYAN THOMAS
PAULOSE C. ABRAHAM
RAJA KANNAN

BY ADVS.
V.M.KRISHNAKUMAR
MAYA M.

OTHER PRESENT:

GP- RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08.04.2025, ALONG WITH WP(C).1928/2022, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:



2025:KER:30731

VIJU ABRAHAM, J.**W.P.(C) Nos.1928 & 26432 of 2022**Dated this the 8th day of April, 2025**JUDGMENT**

Since common issues are involved in these writ petitions, both of the writ petitions are heard and disposed of by this common judgment.

W.P.(C) No.1928 of 2022

2. Petitioner at the time of filing of the writ petition was working as Assistant Manager (HR) under the 2nd respondent. She has now retired from service. It is contended that the employees of the 2nd respondent Corporation are governed by Ext.P1 Special Rules wherein the post of Assistant Manager is included as G9 under the Human Resources (HR) Department and the post of Personal Secretary is included in the Secretarial Wing though the same is also included as G9. As per Ext.P1, promotion to the post of Deputy Manager is to be done by selection from Assistant Managers in G9 having degree with two years service. Though the promotion to the post of Deputy Manager was over due and the petitioner made request in this regard, no action has been taken to grant promotion to the petitioner. Ext.P2 is the



2025:KER:30731

information provided to another employee, who is the petitioner in the other writ petition, intimating that only on finalisation of the staff pattern steps could be taken for promotion to the post of Deputy Manager. Petitioner submits that promotions were effected in spite of the fact that the staff patterns were not finalised in respect of other posts as evident from Ext.P3. Ultimately by Ext.P4 the staff pattern was approved. Later the petitioner was called for an interview on the basis of Ext.P5 interview memo. The interview did not take place and the petitioner was informed as per Ext.P6 letter that another writ petition filed as W.P.(C) No.26260 of 2019 is pending consideration and therefore interview will be conducted in terms of the final verdict of the said case. While so steps were taken to amend Ext.P1 Rules. Draft Rules were approved by the Director Board of the 2nd respondent and forwarded to the Government and ultimately by Ext.P8 amended Rules were approved by the Government as per Ext.P7. By Ext.P8 the post of Personal Secretary is also included as a feeder category for promotion to the post of Deputy Manager. Based on the same Ext.P9 interview memo was served on the petitioner and due to Ext.P8 amended Rules petitioner is treated as junior to respondents 4 to 6 since they have entered G9 category earlier than the petitioner. The specific case of the petitioner is that Ext.P7 can be made applicable only to those vacancies which arose subsequent to Ext.P7 amendment and two vacancies of Deputy Manager was



2025:KER:30731

available since 2018 and the petitioner being fully qualified for promotion to the said post prior to Ext.P7 amendment has to be promoted in terms of Ext.P1 Rules. It is aggrieved by the same that the present writ petition has been filed.

3. Initially when the matter came up for consideration on 19.01.2022 this Court has passed an interim order to the effect that the appointment to the post of Deputy Manager pursuant to the interview held on 22.01.2022 shall be effected only after obtaining further orders from this Court. Later taking note of the fact that the petitioner has retired from service on 31.05.2022 this Court as per order dated 07.07.2022 permitted appointment to the post of Deputy Manager, however making such appointments purely provisional and subject to further orders of this Court.

W.P.(C) No.26432 of 2022

4. Petitioner joined the service of the 2nd respondent Corporation on 04.12.1997 as an Assistant and promoted to the post of Assistant Manager on 21.11.2019. Petitioner also relying on Ext.P1 Special Rules submits that had promotions being effected within time, petitioner would have been appointed to the post of Deputy Manager. It is due to the pressure exerted by the Personal Secretaries in the establishment, the post of Personal Secretary was equated with the post of Assistant Manager and was put together in the feeder category of the post of



2025:KER:30731

Deputy Manager. Aggrieved by the same Ext.P2 representation was submitted by the petitioner and others. Despite the objection 2nd respondent Corporation proceeded with the process of amendment and going by Ext.P3 recommendation of the Corporation a ratio of 1:1 was fixed between the Assistant Manager and Personal Secretary in the matter of promotion to the post of Deputy Manager. But when the Government approved the Rules as per Ext.P4 this ratio was taken away. The case of the petitioner is that non-prescription of ratio between two categories of posts is highly arbitrary and opposed to the fundamental principles of service jurisprudence. Immediately after coming into force of the new Rules selection was conducted to the two posts of Deputy Manager (HR) and as per Ext.P5 select list promotion was granted to respondents 4 and 5 by Ext.P6 order of promotion. The specific case of the petitioner is that the 4th respondent's qualification is B.Com. and Typewriting (Higher) and does not have any qualification in management or in particular personnel management. Similarly the qualification of the 5th respondent is degree and MBA in Finance. At the same time the petitioner who has degree and two post graduate diploma in personnel management as well as marketing was denied promotion. Petitioner challenging the promotion granted to respondents 4 and 5 has filed a representation before the 2nd respondent which was rejected by Ext.P7. It is aggrieved by the same that the present writ petition has



2025:KER:30731

been filed.

5. Petitioner would contend that promotions can be made only to the next higher post in the same discipline as per the present as well as the unamended Rules and both HR and Secretarial Wings are two different disciplines and also the new Rules treats HR and Secretarial Wing as two different disciplines though both fall under non-technical category and therefore grant of promotion to the Personal Secretaries as Deputy Managers which is the next higher level post after Assistant Manager in the HR discipline is ultra vires the Rules.

6. A detailed counter affidavit has been filed by the respondent Corporation in both the cases. The contention taken by the petitioner in W.P.(C) No.1928 of 2022 that though Ext.P5 interview notice was issued intimating that the interview will be held on 11.11.2019 the same has been adjourned only to help the Personal Secretaries so that the selection could be made after the amendment of the Special Rules is without any basis. The staff pattern in respect of the officers was approved by the Government as per order 20.07.2019, but certain anomalies were found in the Rules for the recruitment and promotion of officers and in order to rectify the anomalies, the Government as per letter No.PU3/207/2019/AGRI dated 29.11.2019 directed to conduct a study through the Institute of Management in Government (IMG), Thiruvananthapuram and the said agency was entrusted for a study and



2025:KER:30731

the report submitted was considered in the Board level sub-committee and the recommendations of the sub-committee in IMG report was approved by the Board as per resolution dated 30.01.2021 and forwarded to the Government. The proposal was by recommending to consider the promotion to the post of Deputy Manager (HR) in G10 from the Assistant Manager (HR) in G9 and Personal Secretary in G9 at the ratio of 1:1. The Government considered the said proposal and forwarded the same to the Kerala Public Service Commission (KPSC) for ratification. The KPSC however recommended certain amendments in the aforesaid Special Rules. Accordingly the Government vide order dated 07.07.2021 directed the 2nd respondent to submit the draft recruitment rules after incorporating the recommendations/amendments of KPSC. The suggestion made by the KPSC was to consider the Assistant Manager (HR)/Personal Secretary on the basis of original seniority at G9 level for promotion to the post of Deputy Manager (HR). The Board of Directors as per resolution dated 10.07.2021 approved to incorporate amendments in the Special Rules suggested by the KPSC and to forward the same to the Government for approval and the Government as per Ext.P7 order dated 30.07.2021 approved the draft Special Rules. On the basis of the same it is contended by the learned counsel appearing for the respondent Corporation that the allegation of bias is unfounded and a transparent procedure has been adopted. It is



2025:KER:30731

further submitted that this Court cannot sit over the decisions of expert bodies as a court of appeal and only the decision making process can be examined and not the decision itself. It is also contended that in the absence of allegations of mala fides judicial review can only be confined to the question as to whether any statutory or binding rules has been contravened in the appointment. In answer to the averment in W.P.(C) No.26432 of 2022 it is contended in the counter affidavit that the contention raised in the writ petition that the posts of Personal Secretary and Assistant Manager cannot be equated and Ext.P4 to the extent it equates the said posts is invalid cannot be accepted. The essential qualification for appointment to a post is for the employer to decide and it is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work and therefore the contention to the contrary is only to be rejected. It is contended on the strength of Ext.R2(a) KAMCO Staff Bye-law, 1973, particularly Clause 6 of Part I that the Board may delete, add to or amend any of these bye-laws from time to time. It is further contended relying on Clause 9(1) of Part II of the said Bye-law that no employee has any right to promotion to any post solely on the ground of his seniority in service or in any grade or on the ground of his having held additional charge of that post or having acted in that post or on any other ground and the promotion will be governed by Special Rules



2025:KER:30731

issued by the Board. It is contended that the change in qualifications and the issuance of Ext.P4 norms is a policy decision which is exclusively within the domain of the executive power and the said changes were effected not on a mere arbitrary decision or on any ulterior motive. It is further submitted that the averment that the amendment was carried out due to the pressure exerted by the Private Secretaries is devoid of any merit and the changes in Ext.P1 Special Rules were made keeping in mind the nature of duties of both posts and the comments received from the Government and the KPSC. As per the previous Rules there was no promotion avenue for the Personal Secretaries beyond G9 level and this aspect is also taken into consideration while effecting amendment to the Special Rules. On the basis of the same the respondent Corporation has sought for dismissal of the writ petitions.

7. A detailed counter affidavit has been filed by the 5th respondent in W.P.(C) No.26432 of 2022 wherein it is contended that the promotions are done by a committee comprised of Board of Directors which includes the Chairman and Managing Director and the Special Rules is comprehensive as the same lays down detailed criteria for eligibility and method to be followed while promoting employees and the promotions are done by a competent committee in which Government nominated director is also a member. It is further



2025:KER:30731

contended that the promotions were made based on Rule 4(3) of Ext.P4 which laid down the eligibility criteria for promotion. It specifically mandates that for promotions against each vacancy, a select list should be prepared based on the suitability of the candidate from the feeder category of each discipline and after the approval of the list by the Board of Directors, the Managing Director will make the appointment and that the promotions to the post of Assistant Manager onwards are made based on the suitability of the candidate, based on the weightage, seniority, performance rating for the last three years and interview. It is further submitted that as evident from Ext.P5 proceedings of the promotion committee, the petitioner is named as Sl.No.4 which is evident of the fact that the petitioner participated in the selection process for promotion to the post of Deputy Manager and therefore the petitioner is estopped from challenging the promotion policy thereafter as held by the Apex Court in **Air Commodore Naveen Jain v. Union of India and others, 2019 KHC 7005** and that in the said judgment it was also held that if the promotion policy provides equal opportunities to the officers falling within the zone of consideration, such policy is not discriminatory in terms of Articles 14 and 16 of the Constitution of India. The learned senior counsel further relied on the judgment in **Hardev Singh v. Union of India and another, 2011 KHC 4858** wherein the Apex Court held that no employee has a right to get promotion, but he



2025:KER:30731

had a right to be considered for promotion and in the present case the petitioner has been duly considered for promotion and assigned a rank also and thereafter cannot turn around and challenge the selection process. As regard the contention of the petitioner in W.P.(C) No.1928 of 2022 that the vacancies which arose before the amendment are to be filled up on the basis of the unamended Rules is also without any basis in the light of the judgment of the Apex Court in **State of Himachal Pradesh v. Raj Kumar, 2022 KHC 6587** which was followed by this Court in **Mehaboob P.M. v. State of Kerala, 2022 KHC 557**. On the basis of the same 5th respondent sought for dismissal of the writ petition.

8. I have considered the rival contentions on both sides.

9. The contention raised by the petitioner in W.P.(C) No.1928 of 2022 is that the vacancy has arisen prior to the amendment of the Special Rules in as much as an interview memo was sent to the petitioner as evident from Ext.P5 and therefore the appointment should have been made based on the selection criteria prescribed in the unamended Rules. Reliance was placed on the decision of a Full Bench of this Court in **Mohanan K.R. v. Director of Homeopathy and others, 2006 KHC 855** in support of the said contention which was decided relying on the judgment of the Apex Court in **Y.V.Rangaiah and others v. J.Sreenivasa Rao and others, (1983) 3 SCC 284**. But the Apex Court in a subsequent judgment in **State of Himachal Pradesh's** case



2025:KER:30731

cited supra which was decided taking into consideration the judgment in **Y.V.Rangaiah's** case cited supra overruled the said proposition and held as follows:

"36. Analysis:

A review of the fifteen cases that have distinguished Rangaiah would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in Rangaiah. The findings in these judgments, that have a direct bearing on the proposition formulated by Rangaiah are as under:

- 1. There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, Rangaiah's case must be understood in the context of the rules involved therein (Deepak Agarwal v. State of U. P., 2011 (6) SCC 725, Para 26; Union of India v. Krishna Kumar, 2019 (4) SCC 319, Para 10).*
- 2. It is now a settled proposition of law that a candidate has a right to be considered in the light of the existed rules, which implies the "rule in force" as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates (Deepak Agarwal v. State of U. P., 2011 (6) SCC 725, Para 26; Union of India v. Krishna Kumar, 2019 (4) SCC 319, Para 10).*
- 3. The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government (K. Ramulu v. Suryaprakash Rao, 1997 (3) SCC 59, Paras 12 and 13, Shyam Chandra Das v. State of Orissa, 2003 (4) SCC 218, Para 9, State of Punjab v. Arun Kumar Aggarwal, 2007 (10) SCC 402, Para 38; Deepak Agarwal v. State of U. P., 2011 (6) SCC 725, Para 28). There is no obligation for the Government to make appointments as per the old rules in the event of restructuring of the cadre is intended for efficient working of the unit*



2025:KER:30731

(G. Venkateshwara Rao v. Union of India, 1999 (8) SCC 455, Para 4).

The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Art.14 (Rajasthan Public Service Commission v. Charan Ram, 1998 (4) SCC 202, Para 15; K. Ramulu v. Suryaprakash Rao, 1997 (3) SCC 59, Para 15).

4. The principle in Rangaiah need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately (In Delhi Judicial Services Association v. Delhi High Court, 2001 (5) SCC 145, Para 5).

5. When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases (Deepak Agarwal v. State of U. P., 2011 (6) SCC 725, Para 25).

37.1 The above - referred observations made in the fifteen decisions that have distinguished Rangaiah's case demonstrate that the wide principle enunciated therein is substantially watered - down. Almost all the decisions that distinguished Rangaiah hold that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of law that existed on the date when they arose. This only implies that decision in Rangaiah is confined to the facts of that case.

37. 2 The decision in Deepak Agarwal (supra) is a complete departure from the principle in Rangaiah, in as much as the Court has held that a candidate has a right to be considered in the light of the existing rule. That is the rule in force on the date the consideration takes place. This enunciation is followed in many subsequent decisions including that of Union of India v. Krishna Kumar (supra). In fact, in Krishna Kumar Court held that there is only a "right to be considered for promotion in accordance with rules which prevail on the date on which consideration for promotion take place.

37. 3 The consistent findings in these fifteen decisions that Rangaiah's case must be seen in the context of its own facts, coupled with the declarations therein that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of rules



2025:KER:30731

which existed on the date which they arose, compels us to conclude that the decision in Rangaiah is impliedly overruled. However, as there is no declaration of law to this effect, it continues to be cited as a precedent and this Court has been distinguishing it on some ground or the other, as we have indicated hereinabove. For clarity and certainty, it is, therefore, necessary for us to hold;

(a) The statement in Y. V. Rangaiah v. J. Sreenivasa Rao that, "the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules", does not reflect the correct proposition of law governing services under the Union and the States under part XIV of the Constitution. It is hereby overruled.

(b) The rights and obligations of persons serving the Union and the States are to be sourced from the rules governing the services."

In the said judgment the Court considered the issue examining the judgment of the Apex Court in **Y.V.Rangaiah's** case cited supra and held that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of the law that existed on the date when they arose and it is well within the power of the Government to take a policy decision not to fill up a vacancy which is arising prior to the amendment of the said Rules and that the employee does not acquire any vested right to be considered for promotion in accordance with the repealed Rules in view of the policy decision taken by the Government. A Division Bench of this Court in **Mehaboob P.M.'s** case cited supra has considered a similar issue in the light of the judgment in **State of Himachal Pradesh's** case cited supra and held in paragraphs 10, 13 and 14 as follows:



2025:KER:30731

“10. The learned Government Pleader as well as the learned counsel for the petitioners in OP(KAT) 123 of 2022 submits that this dispute is no longer res integra after the judgment of the Supreme Court in State of Himachal Pradesh and Others (supra). After surveying all the decisions that were considered by the Supreme Court in Y. V. Rangaiah v. Sreenivasa Rao (1983 (3) SCC 284, which held that the vacancies that arose when the old Rules were in force will be governed by the old Rules, the court found the said view to be untenable and proceeded to overrule Y. V. Rangaiah (supra). It was found that there is no right for the employee outside the Rules governing the service. When the subsequent Rules come and there is no provision in the said Rules to enable any employee to be considered as per old Rules, the matter must end there and reiterated that the rights and obligations of the persons serving the Union and the States are to be sourced from the Rules governing their services.

.....

13. It is also significant that the State had not committed itself to filling up the existing vacancies based on the old Rules. It is trite that the mere existence of vacancies does not confer any right on qualified employees to seek appointment to the said vacancies. It is open to the State to decide, as a matter of policy, that the vacancies should be filled only in accordance with the new Rules. This is more so when we are told that the new Rules were in a draft stage for a considerable period of time before they finally came into force.

*14. We also hold that the decision in **Mohanan** (supra) cannot be taken as good law in view of the judgement of the supreme Court in **State of Himachal Pradesh and Others** (supra) as the Full Bench of this Court had relied on the judgment in **Y. V. Rangaiah (supra)** to come to the conclusion that the promotion has to be on the basis of the old rules when the vacancy fell prior to the coming into force of the amended Rules. This cannot be accepted as the said judgment relied on by this Court has been expressly overruled in **State of Himachal Pradesh and Others** (supra).”*



2025:KER:30731

Learned standing counsel for the respondent Corporation also brought to my notice the decision of the Apex Court in **Government of West Bengal v. Dr.Amal Satpathi, 2024 KHC OnLine 8525** wherein this Court in paragraphs 20 and 21 has held as follows:

“20. In the instant case, it is evident that while respondent No. 1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer. R.54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or retrospective promotions in the absence of an enabling provision.

21. While we recognize respondent No.1's right to be considered for promotion, which is a fundamental right under Art.14 and Art.16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

And on the basis of the said judgment it is the contention of the learned standing counsel that the petitioner in W.P.(C) No.1928 of 2022 has since retired from service cannot claim for retrospective promotion.

10. In the light of the above facts and circumstances, I am not inclined to accept the contentions of the petitioner in W.P.(C) No.1928 of 2022 that she is entitled for promotion on the basis of the unamended



2025:KER:30731

Rules. The further contention raised by the learned counsel for the petitioner in W.P.(C) No.1928 of 2022 is that the promotions were delayed only to see that the Special Rules are amended in the meanwhile so as to make the Personal Secretaries also eligible for promotion to the post of Deputy Manager. But, I find that except for such an assertion made in the writ petition the facts of the case does not disclose any such intention on the part of the respondent Corporation to delay the promotion so as to benefit the Personal Secretaries. Ext.P5 is the interview memo which revealed that the interview is to be conducted on 11.11.2019 and by Ext.P6 an intimation was given to the petitioner that due to the pendency of a writ petition filed as W.P.(C) No.26260 of 2019 interview is adjourned for an another date. Going by the counter affidavit filed on behalf of respondents 2 and 3 it is seen that though the staff pattern was approved by the respondent Corporation as early as on 20.07.2019, there were certain anomalies in the draft Rules framed for recruitment and promotion of officers and in order to rectify the anomalies the Government as per letter dated 29.11.2019, ie, only a few days after Ext.P5 interview memo was issued to the petitioner, has directed the respondent Corporation to conduct a study through the Institute of Management in Government and they were entrusted with the same and a report was submitted and the recommendations of the sub-committee was approved by the Board and as per the proposal of



2025:KER:30731

the respondent Corporation for promotion to the post of Deputy Manager (HR) a ratio at 1:1 was fixed between Assistant Manager as well as Personal Secretary in G9. This itself will show that the Management had no intention to exclude the Assistant Manager (HR) from the zone of consideration for promotion to the post of Deputy Manager. But the said ratio fixed by the Corporation was not accepted by the KPSC and based on the recommendation the Government directed the respondent Corporation to amend the Rules and accepting the said objection raised by the KPSC the Board resolved to finalise the Special Rules on 10.07.2021, which was approved by the Government as per Ext.P7 dated 30.07.2021. Therefore the said contention that it is only to help the Personal Secretaries to get a chance for promotion that the promotions were delayed cannot be accepted. Going by Ext.P1 Special Rules the promotion to the post of Assistant Manager onwards are to be based on weightage taking into consideration seniority, performance rating (average for the last three years) and interview and that a select list is to be prepared by a committee and based on the same the Managing Director has to effect promotions. A perusal of Ext.P5 would reveal that the petitioner has participated in the process of selection and was assigned rank No.4. I find considerable force in the contention raised by the respondent Corporation on the basis of Ext.R2(a) that no employee has any right for promotion to any post solely on the ground



2025:KER:30731

of seniority itself and that it is for the employer to decide the essential qualifications for appointment to a post. The counter affidavit also states that it was also with a view to grant promotional avenues to Personal Secretaries who under the previous Rules could not be promoted beyond G9 level that they were also considered as a feeder category to the post of Deputy Manager. Admittedly the petitioner had participated in the process and could not secure a higher rank which disentitled her for getting promotion to the post of Deputy Manager. The promotion policy provided equal opportunity to officers falling within the zone of consideration and petitioner was considered and therefore she cannot contend that the policy is discriminatory. As earlier stated, as per the judgment of the Apex Court in **State of Himachal Pradesh**'s case cited supra the employee cannot claim that the vacancies which arose prior to the amendment of the Special Rules are to be filled up as per the provisions of the unamended Rules. Taking all these aspects into consideration I find no reason to interfere with the selection made based on the Special Rules now in force. In the light of the above, I am not inclined to interfere with the orders impugned herein.

It is brought to my notice that the respondent Corporation has already as per communication dated 22.08.2024 addressed the Principal Secretary to the Government that the modification of the proposal of the management to give promotion in the ratio of 1:1 is



2025:KER:30731

creating serious prejudice to the Corporation and that the petitioner in W.P.(C) No.26432 of 2022 has submitted a complaint in this regard and has requested the Government to bringing in the ratio of 1:1 already proposed by the Corporation and a reply has been given by the Government dated 25.09.2024 intimating that the request of the Corporation will be considered after the disposal of the writ petition filed as W.P.(C) No.26432 of 2022. In the light of the disposal of these writ petitions, it is for the 1st respondent Government to take an appropriate decision on the request made by the respondent Corporation dated 22.08.2024 seeking amendment to the Special Rules in accordance with law.

With the abovesaid observations the above writ petitions are dismissed.

Sd/-

**VIJU ABRAHAM
JUDGE**



2025:KER:30731

APPENDIX OF WP(C) 1928/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE RECRUITMENT AND PROMOTION RULES FOR MANAGERIAL AND SUPERVISORY EMPLOYEES UNDER THE KAMC EMPLOYEES STAFF BYELOWES 1973
- Exhibit P2 TRUE COPY OF THE INFORMATION GIVEN TO ONE SMT. PREETHA P MENON UNDER THE RIGHT TO INFORMATION ACT DATED 23.5.2018
- Exhibit P3 TRUE COPY OF THE INFORMATION GIVEN TO SMT. PREETHA P. MENON UNDER THE RIGHT TO INFORMATION ACT DATED 15.7.2019
- Exhibit P4 TRUE COPY OF THE G.O. (MS) NO.96/2019/AGRI DATED 20.7.2019
- Exhibit P5 TRUE COPY OF THE MEMO DATED 11.11.2019 ISSUED BY THE DEPUTY GENERAL MANAGER (HR) TO THE PETITIONER
- Exhibit P6 TRUE COPY OF THE LETTER DATED 18.11.2019 ISSUED BY THE DEPUTY GENERAL MANAGER (HR) TO THE PETITIONER
- Exhibit P7 TRUE COPY OF THE G.O. (MS) NO.68/2021/AGRI DATED 30.7.2021
- Exhibit P8 TRUE COPY OF THE RELEVANT EXTRACT OF THE AMENDED RULES OF THE KERALA AGRO MACHINERY CORPORATION LTD.
- Exhibit P9 TRUE COPY OF THE INTERVIEW MEMO DATED 11.1.2022 ISSUED BY THE DEPUTY MANGER (HR) TO THE PETITIONER.

RESPONDENT EXHIBITS

- Exhibit R6 a TRUE COPY OF THE LIST PUBLISHED BY THE 2ND RESPONDENT FROM ELIGIBLE ASSISTANT MANGER HR/PERSONAL SECRETARY ON THE BASIS OF ORIGINAL SENIORITY AT GRADE 9



2025:KER:30731

APPENDIX OF WP(C) 26432/2022

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF 1973 RULES (THE SPECIAL RULES FOR RECRUITMENT AND PROMOTION OF MANAGERIAL AND SUPERVISORY EMPLOYEES UNDER THE KAMC EMPLOYEES STAFF BYE LAWS, 1973).
- EXHIBIT P2 :- TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER AND OTHERS BEFORE THE CHAIRMAN, KAMCO ON 14.11.2017.
- EXHIBIT P3 TRUE COPY OF THE RELEVANT EXTRACT OF THE RECOMMENDED AMENDMENTS IN THE MEETING HELD ON 18.6.2021.
- EXHIBIT P4 TRUE COPY OF THE GOVERNMENT ORDER NO. 68/2021/ AGRICULTURE DT. 30.7.2021 ALONG WITH THE APPROVED RULES.
- EXHIBIT P5 TRUE COPY OF THE SELECT LIST DT.22.1.2022
- EXHIBIT P6 TRUE COPY OF ORDER OF PROMOTION DT.20.7.2022 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P7 TRUE COPY OF ORDER DATED 29.7.2022 ISSUED BY THE 2ND RESPONDENT

RESPONDENT EXHIBITS

- Exhibit R2(a) True copy of the staff bye-laws of the 2nd respondent company
- Exhibit R2(b) True copy of the order dated 20.07.2019 issued by the Agriculture (PU) Department, Govt. of Kerala
- Exhibit R2(c) True copy of the communication dated 29.11.2019 from the Under secretary, Govt. of Kerala to the 3rd respondent



2025:KER:30731

- Exhibit R2(d)** true copy of the communication dated
30.01.2021 from the 2nd respondent
company to the principal secretary,
Agricultural Department
- Exhibit R2(e)** True copy of the communication dated
07.07.2021 issued by the Additional
Secretary, govt. of India to the 3rd
Respondent
- Exhibit R2(f)** True copy of the communication sent
from the 2nd respondent dated
12.07.2021 to the agriculture
department, Govt. of kerala