
(2005) 12 KL CK 0048
In the High Court Of Kerala
Case No : Writ Petition No. 21069 of 2005

Prakasini

APPELLANT

Vs

Joint Registrar

RESPONDENT

Date of Decision : 05-12-2005

Acts Referred:

Citation : (2006) 1 KLT 199

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : T.A. Shaji and T.V. Neema, for the Appellant; P.N. Mohanan, M. Sasindran and John Joseph Vettikkad, Government Pleader, for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The Board of the second respondent Co-operative Bank resolved on 6-2-2003, among other things, to promote the writ petitioner with effect from 1-1-2003. Following that Ext.P1 proceedings No. 1/2003 was issued by the President of the Co-operative Bank on 10-2-2003.

2. Before the said PI decision was taken, amendments made as per Act 1 of 2000 to Section 69 of the Co-operative Societies Act were given effect to, with effect from 2-1-2003. Thereby Clause (d) of Sub-section 2 of Section 69 brought all disputes in connection with the employment, including their promotion and inter se seniority under the canopy of the word "disputes" for the purpose of Section 69(1). The last limb of Section 69(1) provides that such disputes shall be decided by the arbitration court or the Registrar, as the case may be and no other court or authority shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute. In my considered view; this is a clear statutory exclusion of the authority under Rule 176 of the KCS Rules, which otherwise was being exercised in relation to such disputes. So much so, there cannot be any statutory adjudication by any authority other than the arbitration court or the Registrar, as the case may be of any dispute in relation to a decision as to inter se seniority between employees, taken by the employer on or after 2-1-2003. In that view of the matter, Ext.P4 decision of the Joint Registrar of Co-operative Societies in

purported exercise of authority under Rule 176 of the Rules and Ext.PS appellate order passed by the Government lack in jurisdiction and they cannot, therefore, stand, they being void.

3. Under such circumstances, without prejudice to the right of the third respondent to challenge the decision contained in Ext.PI before an arbitration court or the Registrar in terms of Section 69(1) of the KCS Act, Exts.P4 and P5 are quashed. If the third respondent takes recourse to such remedy within three weeks from today, the same shall be entertained and considered on merits. It is further directed that the competent authority will take a decision on any such application after hearing the writ petitioner and the third respondent Bank and such decision shall be taken within 45 days from the date of receipt of a certified copy of this judgment.

Writ Petition is disposed of in the above terms.