
(2007) 07 KL CK 0099
In the High Court Of Kerala
Case No : W.A. No. 1227 of 2006

Raveendran, P.S.

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 04-07-2007

Acts Referred:

Citation : (2007) 07 KL CK 0099

Hon'ble Judges : K.S. Radhakrishnan, J;Antony Dominic, J

Bench : Division Bench

Advocate : G. Krishnakumar, for the Appellant; Benny Gervasis, Government Pleader and C.D. Dileep, S.C. for Thrissur Urban Co-operative Bank, A. Jayasankar and Manu Govind, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Writ petition was preferred by the Appellants herein seeking a writ of certiorari to quash Exts.P-5 and P-7 orders. Ext. P-5 is the order passed by the Joint Registrar holding that the fourth Respondent is senior to the Petitioners in the cadre of Junior Clerk and is therefore entitled to all consequential benefits. Ext. P-7 is an order passed by the Government confirming Ext. P-5. Aggrieved by the same writ petition was preferred. Learned Single Judge disposed of the writ petition placing reliance on the decision of another learned Judge of this Court in Prakasini Vs. Joint Registrar, and took the view that; the remedy open to the writ Petitioners is to approach Co-operative Arbitration Court. Aggrieved by the same this appeal has been preferred.

2. Contention was raised by the counsel for the Appellants that a dispute with regard to seniority between the Appellants and the fourth Respondent is to be decided by Joint Registrar and not by the Arbitration Court. It was also stated that the second Respondent has passed Ext. P-5 order on a direction given by this Court in Ext. P-1 judgment and that judgment has become final and therefore jurisdiction has been conferred on the Joint Registrar to decide the seniority dispute between the parties.

3. We are of the view, after the coming into force of Act 1 of 2000 with effect from 2-1-2003, the dispute in connection with the employment of officers and servants of different classes of societies specified in Sub-section (1) of Section 8C including their promotion and inter se seniority has to be decided by the Arbitration Court and not by the Joint Registrar or by the Government. The mere fact that this Court in a writ petition filed by the Petitioners directed the Joint Registrar to decide the dispute cannot amount to conferring jurisdiction on the Joint Registrar to decide the dispute for which he has no jurisdiction. Judgment rendered by this Court would not confer any jurisdiction or authority on the Joint Registrar when legislature has conferred jurisdiction on the Arbitration Court. When this Court directs consideration of a matter by the Joint Registrar the Joint Registrar can decide that matter only in accordance with law. Legislature has conferred jurisdiction on the Arbitration Court to decide the question of seniority and promotion and therefore the order passed by the Joint Registrar is without jurisdiction. Learned Single Judge has rightly allowed the writ petition and quashed the order passed by the Government confirming the order of the Joint Registrar.

4. Learned Single Judge of this Court in Prakasini's case (supra) has taken the view that inter se seniority between employees is to be decided by the Arbitration Court or by the Registrar and not by the Joint Registrar under Rule 176 of the Kerala Co-operative Societies Rules. Dispute between the parties consequently falls u/s 69 (2) (d) of the Act which is extracted hereunder for easy reference.

69. Disputes to be decided by Co-operative Arbitration Court and Registrar:-

(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises:

(a) * * * * (b) * * * * (c) * * * * (d) * * * * (e) * * * * (f) * * * * (g) * * * *
(h) * * * *

(2) For the purposes of Sub-section (1), the following shall also be deemed to be disputes, namely-

(a) * * * * (b) * * * * (c) * * * * (d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in Sub-section (1) of Section 80, including their promotion and interse seniority.

Section 70B of the Act deals with provisions as to pending proceedings, which is also extracted hereunder for easy reference.

70B Provisions as to pending proceedings. On the constitution of a Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monetary disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if

it were a dispute referred to it u/s 69.

On a reading of the above-mentioned statutory provisions it is clear that any dispute arising in connection with employment of officers and servants of the different classes of societies specified in Sub-section (1) of Section 80 including their promotion and inter se seniority is to be decided by the Arbitration Court. On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the same by the Government or the arbitrator appointed by the Registrar, in respect of non-monetary disputes relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it u/s 69. Same is the view taken by the Division Bench of this Court in W.A. No. 2116 of 2006. We therefore fully endorse the view taken by the learned Judge in Prakasini's case. Consequently writ appeal lacks merits and the same would stand dismissed.