
(2001) 12 KL CK 0044
In the High Court Of Kerala
Case No : W.A. No. 3837 of 2001

Surendran

APPELLANT

Vs

Kerala Public Service Commission

RESPONDENT

Date of Decision : 21-12-2001

Acts Referred:

Citation : (2002) 94 FLR 139

Hon'ble Judges : K.S. Radhakrishnan, J;K. Balakrishnan Nair, J

Bench : Division Bench

Advocate : Abraham Vakkanal, for the Appellant; Lal George, Government Pleader and P.C. Sasidharan, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—The question that has come up for consideration in this case is whether the employees of associate or nominal members of the Apex or Central Society are also eligible for appointment for the post of Clerk-Cashier in the District Co-operative Bank on the basis of Ext. P1 notification.

2. In the notification it is stated that 50% of the vacancies will be filled up by selection from eligible employees of Primary Co-operative Societies and rank list will be prepared for each District Co-operative Banks. As per the notification 50% of the appointment is by direct recruitment and 50% from eligible employees of the Primary Co-operative Societies and separate rank lists will be published in respect of both categories. Applications were invited by the Public Service Commission as per the amended Co-operative Societies Rules reads as follows:

187. Vacancies in Apex Society or Central Societies - Notwithstanding anything contained in Rule 186, in appointments to apex societies or central societies, 50% of the vacancies shall be reserved to the employees of the member societies, of the respective apex society or central society as the case may be, having a minimum regular service of 3 years in any of the cadre and having the required qualification for the notified posts in the apex society or central society.

Circulars No. 45/99 and 49/99 were issued by the Regular of Co-operative Societies stating that all employees of the member societies of the District Co-operative Banks irrespective of whether they are associate or nominal members are eligible to apply in the quota earmarked for employees.

3. Petitioners raised a contention that as per the provisions of the Act, employees of the member societies of District Co-operative Banks which constitute District Co-operative Banks alone can be considered as eligible to apply in the quota earmarked for the employees. They contended only A class members of the District Co-operative Banks who are Primary Co-operative Societies alone are members of the District Co-operative Banks and as such the employees of A class members of the District Co-operative Banks alone are eligible to apply for the 50% quota reserved for the employees. Further it was contended that the nominal and associate member societies are admitted only for lending purpose and they are not full-fledged or A class members of the District Co-operative Banks and they do not have voting rights in the District Co-operative Banks. It was also contended that nominal or associate members have got their own apex societies for which the employees of those societies can claim 50% quota reserved for employees. Further it was contended that there are only 173 banks or societies as A class members of the District Co-operative bank. Ernakulam as on 31.3.1999 whereas there are 522 nominal or associate member societies under the Ernakulam District Co-operative Bank and if the employees of those nominal or associate member societies are allowed to apply and included in the rank list earmarked for the 50% quota reserved for the employees, it will adversely affect the right and claim of petitioner and other employees of A class members for getting employment under the reserved quota for employees.

4. In order to resolve the above controversy we have to examine the scope of Section 80, Rule 187 and also allied provisions of the Act. The appointment to the District Co-operative Banks and other Central Societies were left to the Public Service Commission by Section 80(3) of the Co-operative Societies Act. By S.R.O. 380/2000 published in the Kerala Gazette Extra-ordinary No. 45 dated 2.5.2000 Rule 187 was amended stating that notwithstanding contained in Rule 186, in appointment to apex societies or central societies, 50% of the vacancies shall be reserved to the employees of the member societies, of the respective apex society or central society as the case may be having a minimum regular service of 3 years in any of the cadre and having the required qualification for the notified posts in the apex society or central society. It is pursuance to the above mentioned statutory provisions notification was issued by the Public Service Commission. We have to examine whether the expression "member societies" used in Rule 187 would take in the nominal associate member of the District Co-operative Bank or Apex Society as the case may be.

5. District Co-operative Bank is defined u/s 2(ia) which reads as follows:

"District Co-operative Bank" means central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies

and Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members".

The definition clause therefore takes in nominal and associate members also. Since the Legislature uses the expressions "means" and "includes" the definition is exhaustive. Expression "member" is also defined u/s 2(1) as follows:

"Member" means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal or associate member".

The words nominal or associate member is also defined u/s 2(m) of the Act which reads as follows:

(m) "nominal or associate member" means a member who possess only such privileges and rights of a member who is subject only to such liabilities of a member as may be specified in the bye-laws;

On a conjoint reading of Section 50(3A) read with Rule 187 and Section 2(ia), 2(1) and 2(m) would conclusively show that nominal or associate member is also a member coming within the scope of Rule 187 of the Co-operative Societies Rules. The employees of such nominal and associate member societies are also therefore eligible to apply in the vacancies earmarked for appointment to 50% vacancies in the District Co-operative Bank. It is so declared. In view of such circumstance we are of the view learned single Judge was justified in declining the relief in the Writ Petition.

6. Appeal is therefore dismissed.