

(2010) 02 KL CK 0057
In the High Court Of Kerala
Case No : W.A. No. 1204 of 2007

The Kerala Public Service Commission and The District Officer	APPELLANT
Vs	
Krishnan P. and The District Co-operative Bank	RESPONDENT

Date of Decision : 15-02-2010

Acts Referred:

Citation : (2010) 02 KL CK 0057

Hon'ble Judges : Thottathil B. Radhakrishnan, J;P.S. Gopinathan, J

Bench : Division Bench

Advocate : Alexander Thomas, SC, for the Appellant; P. Narayanan, for the Respondent

Final Decision : Allowed

Judgement

Thottathil B. Radhakrishnan, J.—This appeal is by the Kerala Public Service Commission and its District Officer.

2. The first respondent filed the writ petition claiming that he is entitled to be appointed as driver in the service of the second respondent District Co-operative Bank on the premise that on account of the occurrence of a vacancy in the cadre of drivers, the bank was bound to report such vacancy and the PSC was bound to advise accordingly.

3. At the stage of admission of the writ petition, an interim order was issued directing the bank to report four vacancies. That was done. Obviously, that was to get over any possible situation where available vacancy is not reported during the currency of a list.

4. However, at final hearing, it is clearly noted on the basis of the pleadings on record that there was no room for any appointment from the list that was in force at the time the writ petition was filed. However, after dismissing the writ petition, the learned single Judge directed that if the bank proposes to purchase any vehicle and if any post of driver arises in the bank, the writ petitioner shall be appointed to that post without considering the expiry of the rank list.

5. The rank list came into force with effect from 20.11.2002 and its validity expired on 19.11.2005. The judgment itself was issued only on 18.10.2006.

6. With the aforesaid, the bank had also filed a writ appeal which has since been withdrawn on the premise that the bank has purchased a vehicle. That does not, however, improve the situation in favour of the writ petitioner because in terms of the law, there could not have been any direction to appoint a person against a vacancy which arose after the rank list expired. No direction could have been issued to appoint "without considering the expiry of the rank list". Therefore, we are of the clear view that the direction contained in the last sentence of the last paragraph of the impugned judgment is unsustainable. The same is liable to be vacated.

In the result, this writ appeal is allowed vacating the last sentence of the last paragraph of the impugned judgment. No costs.