
(2012) 07 KL CK 0050

In the High Court Of Kerala

Case No : W.A. No's. 1036 and 1046 of 2012

Thrissur District Co-operative Bank

APPELLANT

Vs

Kerala Public Service Commission

RESPONDENT

Date of Decision : 02-07-2012

Acts Referred:

Citation : (2012) 3 KLJ 618 : (2013) 1 KLT 261

Hon'ble Judges : C.N. Ramachandran Nair, J;C.K. Abdul Rahim, J

Bench : Division Bench

Advocate : George Poonthottam, D. Sreekumar and P.N. Mohanan, for the Appellant; P. Ravindran, P.C. Sasidharan and D. Somasundaram, Spl. Government Pleader, for the Respondent

Judgement

C.N. Ramachandran Nair, J.—The Public Service Commission invited applications for direct selection to the post of Deputy General Manager in 3 District Co-operative Banks at Thrissur, Malappuram and Wyanad. The 4th respondent in W. A. No. 1036/2012 with 18 years experience from the cadre of Junior Clerk to Internal Auditor in a Class-I Primary Co-operative Bank applied for the post in all the 3 Banks. On scrutiny of his educational qualification and experience the District offices of the PSC at Malappuram and Wyanad found him qualified and therefore he was selected for interview. After interview for selection the 4th respondent was ranked No. 1 in the selection for the post to the District Bank at Malappuram and in the selection for appointment to the District Bank at Wyanad he was rank No. 2. However, while considering the 4th respondent's application by the District office of the P.S.C. at Thrissur they felt that 3 years experience required for the post of Deputy General Manager was in managerial/supervisory cadre which according to them, the 4th respondent does not possess. Consequently memo was issued to reject his application that was challenged by him by filing Writ Petition before this court. The learned single Judge on being prima facie satisfied about the eligibility directed the P.S.C. to conduct interview which was done and the 4th respondent got Rank No. 1 in the select list. The Writ Petition was disposed of by the learned single Judge declaring the 4th

respondent's experience as "Internal Auditor" of the Co-operative Bank as sufficient experience for selection in terms of R. 186(1B) of the Co-operative Societies Rules read with the qualification prescribed by the P.S.C. while inviting applications for the post. It is against this judgment declaring his experience as sufficient qualification to apply for the post, consequent selection and ranking obtained by him, and the positive direction issued by the single Judge directing the P.S.C. to advise him for appointment, the Bank and certain employees holding the charge of Deputy General Manager have filed the Writ Appeals. We have heard Sri. George Poonthottam appearing for the Appellant Bank and Sri. P.N. Mohanan appearing for the appellants in W.A. No. 1046/2012 and Senior Counsel Sri. P. Raveendran appearing for 4th respondent in W.A. No. 1036/2012 and Sri. P.C. Sasidharan appearing for the Public Service Commission and Special Government Pleader Sri. D. Somasundram appearing for the Co-operative Department. There is no dispute about the educational qualification of the 4th respondent for eligibility for the post of Deputy General Manager through direct recruitment which is M.B.A. from any recognized University. In addition to the educational qualification, the experience required for eligibility for selection to the post as stated in Ext.P1 notification issued by the P.S.C. produced in W.A. No. 1037/2008 is 3 years experience in managerial/supervisory cadre in any Co-operative institution. The case of the appellants is that the experience shown in the certificate produced by the 4th respondent namely Ext.P3 is not sufficient for selection to the post of Deputy General Manager. On facts it is seen from Ext.P3 that the 4th respondent joined as Junior Clerk on 4.3.1991 and after serving as Junior Clerk for 5 years, he was promoted to the higher cadre. His experience as Assistant Secretary from 1.2.2007 onwards is not in dispute by the appellants. However their specific case is that the post of Internal Auditor held by him before becoming Assistant Secretary is not sufficient experience, because it is not a post that could be called managerial or supervisory. On the other hand senior counsel appearing for the 4th respondent contended that on a reference to Ext.R 1(b) produced in W.A. No. 1046/2012 it is clear that 4th respondent served for the whole of his career in a class-I society which has a cadre starting from Junior Clerk to Secretary. According to him Internal Auditor in a Class-I society is equivalent to Branch Manager, which is the 4th position from the lowest post of Junior clerk and it is both managerial-cum-supervisory cadre and experience in that cadre is to be reckoned in terms of Rules stated above as eligible experience for applying to the post of Deputy General Manager.

2. After hearing both sides what we notice is that the learned single Judge has not considered in detail as to whether experience of the 4th respondent was in the managerial or supervisory cadre to make him eligible to apply for the post. However, learned single Judge placed much reliance on the decision taken by the District offices of the PSC in two other districts where the experience certificate produced by the 4th respondent was accepted and he was allowed to participate in the selection process which is interview in which he got high position as Rank No. 1 and 2 respectively. Since R. 186(1)(b) of the Co-operative Societies Rules

which is the very same Rule based on which P.S.C. issued notification for selection to the post of Deputy General Manager in the three Banks, the 4th respondent's eligibility for selection to the same post of Deputy General Manager in two societies hold good for the appellant's society in this case is the finding of the single Judge. The senior counsel appearing for the 4th respondent relied on the feeder category for class-I society wherein 4th respondent was holding the position of Internal Auditor. On going through the feeder category classification of the said society we notice that Internal Auditor is bracketed with Branch Manager and it is the 4th post from the lowest clerical post. Reliance was also placed by both sides on Ext.P11 circular issued by the Registrar of Co-operative Societies wherein also it is clearly stated that the post of steno, typist, clerk, junior clerk, junior inspector, junior accountant, senior accountant and senior inspector constitute the ministerial wing and Branch Manager and above constitute the Executive cadre. Senior counsel for the 4th respondent also relied on R. 185(8)(g) of the Co-operative Societies Rules which clearly states that there are only 3 cadres of employment in the society i.e., Ministerial, Supervisory and Chief Executive. So much so what we notice is that supervisory and managerial cadres are combined cadres in Co-operative societies and that could be the reason why in the feeder category classification the society in which the 4th respondent served for long years has bracketed Branch Manager with Internal Auditor. As a matter of fact and in practice Internal Auditor does only supervisory work of checking the correctness of work done by the accountants, management and staff of finance department and allocation of funds and it is essentially the Internal Auditor who brings out irregularities, mistakes etc., in expenditure by the organisation. So much so we are of the view that single Judge rightly held that the experience of the 4th respondent as Internal Auditor is supervisory and therefore sufficient to entitle him to participate in the selection process which was in fact permitted by single Judge through interim orders. Consequential direction issued by the single Judge is perfectly in order, because in the selection made through interview he has come out by securing first rank. The connected Writ Appeal filed by the employees are on same ground and besides this we do not think they have any right to the post applied for by the 4th respondent because they are holding charge on ad-hoc basis. So much so we do not find any merit in the connected Writ Appeal also. In view of the findings as above we dismiss both the Writ Appeals, one filed by the Bank and other filed by the employees. However, we feel that the Rule needs a review because Deputy General Manager being a senior managerial position, eligibility for direct recruitment should be sufficient experience in higher level managerial cadre and not experience in supervisory cadre. It is for the Government to consider amendment.