

(2004) 09 KL CK 0010

In the High Court Of Kerala

Case No : W.A. No. 545 of 2002 and Connected Cases

Vijayan

APPELLANT

Vs

The Kerala Public Service Commission

RESPONDENT

Date of Decision : 16-09-2004

Acts Referred:

Citation : (2004) 3 ILR (Ker) 405 : (2005) 1 KLT 440

Hon'ble Judges : Nauvdip Kumar Sodhi, C.J.;A.K. Basheer, J

Bench : Division Bench

Advocate : K. Ramakumar and T. Ramprasad Unni, for the Appellant; P.C. Sasidharan, M.V. Amaresan, V.N. Ramesan Nambisan, M.C. Bindumol and C.M. Suresh Babu, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, C.J.—This order will dispose of three Writ Appeals and one Writ Petition in which common questions of law and fact are involved and the Writ Appeals arise out of a common order passed by the learned Single Judge dismissing the Writ Petitions filed by the appellants. Since arguments were addressed in W.A. No. 545 of 2002, the facts are being taken from this case.

2. By notification dated 26th October, 1999 the Kerala State Public Service Commission (for short "the Commission") invited applications from eligible candidates for appointment to the posts of Clerks/Cashiers in the 14 District Co-operative Banks in the State of Kerala. 50 per cent of the vacancies in each district were reserved for the employees of the Primary Co-operative Societies and the remaining 50 per cent had to be filled up by open competition and candidates had the option to apply for both the category of vacancies. The appellants who are employees of the Primary Co-operative Societies which are affiliated to the District Co-operative Banks applied for the posts reserved for the employees of Primary Co-operative Societies. Their applications were rejected by the Commission on the ground that the Primary Co-operative Society of which they are employees is not affiliated to the District Co-operative Bank in which

they had applied for the post. It is this action of the Commission which was challenged by them in the Writ Petition out of which the present appeal has arisen.

3. The notification issued by the Commission provided that 50 per cent of the vacancies reported from each District Co-operative Bank for direct recruitment would be filled up by selection from eligible employees of Primary Co-operative Societies. It further provided that application for the said post should be submitted only to one District Co-operative Bank and that the candidates should mention the name of that district in the relevant column in the application and submit the same to the concerned office of the Commission. Note (1) in the notification provided that Rule 187 read with Rule 186 of the Kerala Co-operative Societies Rules, 1969 (hereinafter called "the Rules") would be applicable to the selections to be made for the posts. It is common case of the parties that by a subsequent notification dated 29th March, 2000 note (1) from the earlier notification had been deleted. The argument of the learned Counsel for the appellants is that the only requirement of the notification is that the applicant should be an employee of a Primary Co-operative Society and, therefore, the Commission was not justified in rejecting the applications of the appellants on the ground that the Primary Co-operative Society of which the appellants were employees was not affiliated to the District Co-operative Bank in which they applied for the post. He further argued that by the subsequent notification of 29th March, 2000 note (1) was deleted and, therefore, Rules 186 and 187 were not applicable to the selection and that the appellants were eligible for appointment to the posts in terms of the notification. The learned Counsel for the Commission on the other hand strenuously urged that an applicant would be eligible for the post only if he was an employee of a Primary Co-operative Society which was affiliated to the District Co-operative Bank in which he was seeking appointment. He relied upon two Division Bench judgments of this Court in *Muraleedhara Kurup v. State of Kerala* (W.A. No. 532 of 2002 decided on 29.7.2002) and *Sathi Devi v. Kerala Public Service Commission* (W.A. No. 2385 of 2002 decided on 3.10.2002) upholding the judgment of the learned Single Judge.

4. We have given our thoughtful consideration to the rival contentions of the parties and find merit in what is contended by the learned Counsel for the Commission. It is true that by the subsequent notification of 29th March, 2000 note (1) from the notification inviting applications stood deleted but that did not mean that Rules 186 and 187 ceased to apply to the selections. The Rules were applicable to these selections because they have a statutory force having been framed under the Co-operative Societies Act and the Commission by deleting the note could not make them inapplicable. Rule 187 at the relevant time provided that "for appointments to the 50 per cent of the vacancies arising in an Apex Society or other Federal type Society having other societies as its members experience in the societies which are members of the respective Apex Society or Federal type Society, as the case may be, shall be a necessary additional qualification"". This Rule did not reserve 50 per cent vacancies for the employees

of the member societies. The reservation was, however, made by the Commission in the notification inviting applications. It is common case of the parties that such reservation could be made by the Commission. It is for these reserved seats that the appellants had applied for appointment. When the notification is read in the context of Rule 187 it is clear that the 50 per cent seats reserved for the posts of Clerks/Cashiers were meant for the employees of the Primary Co-operative Societies which are affiliated to the District Co-operative Bank in which the appointment is sought. The Rule provided that experience in a member society would be an additional qualification for the post and in that context 50 percent seats were also reserved only for the employees of the affiliated societies. There is a District Co-operative Bank in each district which is a central society to which various Primary Co-operative Societies are affiliated. The purpose of making reservation in the District Co-operative Banks is that vacancies in that bank should be available to the employees of the Primary Societies affiliated thereto. The object is to provide an avenue for appointment to the persons working within the district in the societies affiliated to the District Co-operative Bank. The notification inviting application will have to be read in the light of this object and when so read it would mean that an applicant would become eligible only if he was an employee of a Primary Co-operative Society which was affiliated to the District Co-operative Bank in which the application was made and not otherwise. In this view of the matter no fault can be found with the action of the Commission in rejecting the applications filed by the appellants. The view taken by the learned Single Judge is, therefore, unassailable. Similar view has been taken by two other Division Benches of this Court in Muraleedhara Kurup's case and Sathi Devi's case (supra) in which the judgment under appeal has been affirmed. We are not only in respectful agreement with those Judgments but also bound by them.

5. It is true that as per the notification an applicant can apply to any one District Co-operative Bank in the State but he has to be an employee of a Primary Co-operative Society affiliated to that bank. If the Primary Society of which he is an employee is not so affiliated the applicant will be ineligible for appointment.

6. In O.P.No. 31119 of 2001 the orders of the Commission rejecting the applications of the petitioners have been challenged on the ground that they were eligible even though they were not employees of the Primary Co-operative Societies affiliated to the District Co-operative Bank in which they applied. We have already held that persons like the petitioners are ineligible and, therefore, there is no merit in the Writ Petition.

In the result, the Writ Appeals and also the Writ Petition fail and the same are dismissed leaving the parties to bear their own costs.