

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF NOVEMBER 2016/11TH KARTHIKA, 1938

WP(C).No. 35113 of 2014 (L)

PETITIONER(S) :

ARUN KUMAR
KUNDATHIL HOUSE, KIZHAKKOTH P.O,
KODUVALLY (VIA) KOZHIKODE - 673 572

BY ADVS.SRI.P.N.MOHANAN
SMT.I.VINAYAKUMARI
SRI.C.P.SABARI

RESPONDENT(S) :

1. DEPUTY DIRECTOR
DAIRY DEVELOPMENT DEPARTMENT,
KOZHIKODE - 673 001
2. KERALA PUBLIC SERVICE COMMISSION
DISTRICT OFFICE, KOZHIKODE - 673 001
3. THE GENERAL MANAGER
KOZHIKODE DISTRICT CO-OP.BANK LTD. NO. F 1635,
P.B. NO.503, KALLAI ROAD, KOZHIKODE - 673 002
4. THE ADMINISTRATOR
KACHERIMUKKU MILK PRODUCER'S CO-OPERATIVE
SOCIETY LTD.NO.D.11(D) APCOS, P.O.KIZHAKKOTH,
KOZHIKODE

R1 BY GOVERNMENT PLEADER
R2 BY SRI.P.C.SASIDHARAN, SC, KPSC
R3 & R4 BY SRI.R.SUDHISH, SC,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-11-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: - A TRUE COPY OF THE SERVICE CERTIFICATE ISSUED BY THE
FIRST RESPONDENT

EXT.P2: - A TRUE COPY OF THE RANK LIST DATED 3-5-2010
PUBLISHED BY THE PSC

EXT.P3: - A TRUE COPY OF THE ADVICE MEMO DATED 18-10-2014

EXT.P4: - A TRUE COPY OF THE APPOINTMENT ORDER
DATED 14-11-2014

EXT.P5: - A TRUE COPY OF THE PETITION DATED 17-12-2014

EXT.P6: - A TRUE COPY OF THE PETITION DATED 18-12-2014

EXT.P7: - A TRUE COPY OF THE RELEVANT PORTION OF THE MINUTES
DATED 4-5-2013 OF THE ADMINISTRATIVE COMMITTEE.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.35113 of 2014

Dated this the 2nd day of November, 2016

J U D G M E N T

This writ petition is filed by a former employee of the 4th respondent. He applied for the post of Peon/Watchman with the 3rd respondent in the quota earmarked for the members and employees of affiliated society. The petitioner was selected by the PSC and he got appointment order. However, he could not join the 3rd respondent, bank as the 4th respondent did not issue relieving order. Accordingly, the petitioner approached this Court with writ petition. This Court on 20.12.2014 passed the following order:

"Admit. Learned Government Pleader takes notice for the 1st respondent. Sri.P.C.Sasidharan, learned standing counsel, takes notice for 2nd respondent. Sri.R.Sudhish, learned standing counsel takes notice for the 3rd respondent. Issue notice to 4th respondent by speed post.

2. The petitioner is a person, who has got appointment as Peon/Watchman in the 3rd respondent in the quota reserved for the

employees of member society. The petitioner has been directed to join on or before 28.12.2014. However, the petitioner is unable to so join, only because the 4th respondent has refused to grant a relieving order.

3. In such circumstances, it is made clear that one post available in the 3rd respondent shall be reserved for the petitioner. The 4th respondent shall file an affidavit explaining the circumstances in which the petitioner has not been relieved."

2. There after this Court on 19.01.2015 passed the following order:

"The petitioner shall be provisionally permitted to join duty in the third respondent bank as a peon/watchman in terms of Ext.P4 order of appointment. This shall be done without insisting on a relieving order from the fourth respondent pending disposal of the writ petition."

It is admitted by the petitioner and 3rd respondent that the petitioner joined duty with the 3rd respondent. Therefore, the question is weather any further relieving order is required from the 4th respondent. It is apparent that the relieving order was not issued to the petitioner willfully by the 4th respondent. The 4th respondent not chosen to contest the case. In such situation,

this Court is of the view that the admission of the petitioner by the 3rd respondent without relieving order shall be regularized and further production of relieving order is not insisted. It is made clear that the petitioner shall be entitled to all consequential service benefits from the date of joining duty with the 3rd respondent.

Sd/-
(A.MUHAMED MUSTAQUE, JUDGE)

TRUE COPY

P.A TO JUDGE

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