

Sasikumar C. vs Chairman, Coconut Development Board

Sasikumar C. vs Chairman, Coconut Development Board

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Court : Kerala

Decided On : Jan-31-2024

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Shoba Annamma Eapen

Appeal No. : OP (CAT)/216/2019

Appellant : Sasikumar C.

Respondent : Chairman, Coconut Development Board

Judgement :

-:1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945 OP (CAT) NO. 121 OF 2019 AGAINST THE ORDER DATED 26.03.2019 IN O.A.NO.943/2017 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH ----- PETITIONERS:

1 CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI-682 011. 2 SECRETARY, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI-682 011. 3 DEPARTMENT SELECTION COMMITTEE (GROUP A), HEADED BY ITS CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI-682 011. BY ADVS. P.VIJAYAKUMAR KRISHNA T C SRI.M.V.ASHIM

-:2:- OP (CAT) NO. 121 OF 2019 RESPONDENTS:

1 SASIKUMAR C., AGED 41 YEARS, S/O. CHINNASAMY, TECHNICAL OFFICER, COCONUT DEVELOPMENT BOARD, STATE CENTRE, BJ-108, SECTOR-II, SALT LAKE, KOLKATA, WEST BENGAL, PIN-700 091. 2 THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, GOVERNMENT SECRETARIAT, NEW DELHI-110 001. 3 VEDPAL SINGH, ASSISTANT DIRECTOR, COCONUT DEVELOPMENT BOARD, MARKET DEVELOPMENT CUM INFORMATION CENTER, 120, HARGOVIND ENCLAVE, IIND FLOOR, KARKARDOOMA, NEW DELHI 110 001. 4 DR. A.K. SINGH, DEPUTY DIRECTOR GENERAL (HORTICULTURAL SCIENCE), DIVISION OF HORTICULTURE, KRISHI ANUSANDHAN BHAWAN-II, NEW DELHI-110 012. BY ADVS. M.M.MONAYE SRI.GIRISH KUMAR.V., CGC SMT.C.G.PREETHA SRI.T.V.VINU M.PAUL VARGHESE BINCY JOSE SRI.T.V.VINU, CGC

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 17.01.2024, ALONG WITH OP (CAT) NOS.216/2019 AND 151/2020, THE COURT ON 31.1.2024 DAY DELIVERED THE FOLLOWING: -:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN WEDNESDAY, THE 31ST DAY OF JANUARY 2024/11TH MAGHA, 1945 OP (CAT) NO.216 OF 2019 AGAINST THE ORDER DATED 26.03.2019 IN O.A.NO.943/2017 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH -----
PETITIONER: SASIKUMAR C., AGED 41 YEARS, S/O.S.CHINNASAMY, TECHNICAL OFFICER, COCONUT DEVELOPMENT BOARD, STATE CENTRE, BJ-108, SECTOR - II, SALT LAKE, KOLKATTA, WEST BENGAL, PIN - 700091, NOW RESIDING AT CHENNAI AND WORKING AS DEVELOPMENT OFFICER, COCONUT DEVELOPMENT BOARD, REGIONAL OFFICE, NO.47/F1, DR. RAMASAMI SALAI, K K NAGAR, CHENNAI - 600078. BY ADVS. M.M.MONAYE SRI.M.PAUL VARGHESE SMT.BINCY JOSE -:4:- OP (CAT) NO.216 OF 2019 RESPONDENTS:

1 CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI - 682 011. 2 SECRETARY, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI - 682 011. 3 DEPARTMENTAL SELECTION COMMITTEE (GROUP A), HEADED BY ITS CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI - 682 011. 4 THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, GOVERNMENT SECRETARIAT, NEW DELHI - 110 001. 5 SRI.VEDPAL SINGH, NOW WORKING AS ASSISTANT DIRECTOR, COCONUT DEVELOPMENT BOARD, DSP FARM, KONDAGAON, CHATTISGARH, PIN - 494226. 6 DR. A. K. SINGH, DEPUTY DIRECTOR GENERAL (HORTICULTURE SCIENCE), DIVISION OF HORTICULTURE, KRISHI ANUSANDHAN BHAWAN -II, NEW DELHI - 110012. BY ADVS. KRISHNA T C SRI.JAGADEESH LAKSHMAN, CGC

SMT.C.G.PREETHA, CGC SRI.T.V.VINU, CGC

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 17.01.2024, ALONG WITH OP (CAT).121/2019 AND CONNECTED CASES, THE COURT ON 31.01.2024 DELIVERED THE FOLLOWING: -:5:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945 OP (CAT) NO. 151 OF 2020 AGAINST THE ORDER DATED 26.03.2019 IN O.A.NO.943/2017 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH ----- PETITIONER: VEDPAL SINGH, AGED 42 YEARS, ASSISTANT DIRECTOR, COCONUT DEVELOPMENT BOARD, MARKET DEVELOPMENT CUM INFORMATION CENTER, 120, HARGOVIND ENCLAVE, IIND FLOOR, KARKARDOOMA, NEW DELHI-110 092. BY ADVS. SMT.C.G.PREETHA SRI.T.V.VINU -:6:- OP (CAT) NO. 151 OF 2020 RESPONDENTS:

1 SASIKUMAR C., S/O.CHINNASAMY, NOW WORKING AS DEVELOPMENT OFFICER, COCONUT DEVELOPMENT BOARD, REGIONAL OFFICE, NO.47/F1, DR.RAMASAMI SALAI, KK NAGAR, CHENNAI-600 078. 2 CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI-682 011. 3 SECRETARY, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERA BHAVAN, SRV ROAD, KOCHI-682 011. 4 DEPARTMENTAL SELECTION COMMITTEE (GROUP A) HEADED BY ITS CHAIRMAN, COCONUT DEVELOPMENT BOARD, MINISTRY OF AGRICULTURE AND FARMERS WELFARE, KERALA BHAVAN, SRV ROAD, KOCHI-682 011. 5 THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, MINISTRY

OF AGRICULTURE AND FARMERS WELFARE, GOVERNMENT SECRETARIAT, NEW DELHI-110 001. 6 DR.A.K.SINGH, DEPUTY DIRECTOR GENERAL (HORTICULTURAL SCIENCE), DIVISION OF HORTICULTURE, KRISHI ANUSANDHAN BHAWAN-II, NEW DELHI-110 012. BY ADVS. SRI.KRISHNA T C

SRI.P.VIJAYAKUMAR, STANDING COUNSEL SRI.S.MANU, DSGI SRI.PAUL VARGHESE SRI.GIRISHKUMAR THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 17.01.2024, ALONG WITH OP (CAT).121/2019 AND CONNECTED CASES, THE COURT ON 31.01.2024 DELIVERED THE FOLLOWING: -:7:- A.MUHAMED MUSTAQUE & SHOBA ANNAMMA EAPEN, JJ.

----- Dated this
the 31st day of January, 2024

JUDGMENT

A.Muhamed Mustaque, J.

These matters are between the same parties arising out of an

order of the Central Administrative Tribunal (CAT) in

O.A.No.943/2017. We shall refer to the names of parties for easy understanding. The matter is related to selection to the post of Assistant Director in the Coconut Development Board reserved for Scheduled Caste category. The qualification and experience prescribed in the notification dated 30/7/2016 are as follows: Essential: (i) Post Graduate Degree in Horticulture/Agriculture/Plant Science (with working experience in plantation tree crops) from a recognized University or equivalent. - :8:-

(ii) Six years experience in a responsible capacity in the formulation and implementation of coconut development projects." (emphasis supplied)

2. Vedpal Singh was selected by a Selection Committee

consisting of Dr.A.K.Singh, who was the then Chairman of the Coconut Development Board as well as the Managing Director of the National Horticulture Board. The Selection Committee also consisted of Dr.D.P Singh, Joint Director of the National Horticulture Board. It was a three-member selection committee. The selection was conducted at the National Horticulture Board at Gurgaon though the head office of the Coconut Development Board is located in Kochi, Kerala. The selected candidate, namely, Vedpal Singh was Technical Assistant and Horticulture Officer with the National Horticulture Board from 2006 onwards.

3. Sasikumar C., the petitioner in O.P.(CAT).No.216/2019, a

candidate who applied for the post of Assistant Director in the Coconut Development Board was working at that time as Technical Officer with the Coconut Development Board. Aggrieved by the denial of his candidature as Assistant Director, he approached the :-9:- Central Administrative Tribunal (CAT) in Gurgaon, challenging the selection of Vedpal Singh alleging that he did not possess necessary qualification and further alleging that favoritism was shown in the process of selection as he was working under the Chairman of the Selection Committee. He highlights the following events described in ground C of O.A.No.943/2017 to show bias: 1) The interview was scheduled at Gurgaon on the pretext that it is for the Chairman's convenience.

(2) Many in the Ann:A3 screening were ousted stating that they have no experience in coconut while the 5th respondent is retained even though he had no experience in coconut.

(3) No group discussion was conducted as is adopted in other various selections.

(4) Assessment of each candidate was not in accordance with/giving marks or points to the individual candidates for their performance etc.

(5) The 5th respondent was given an appointment at a place best suited for him by transferring another official.

(6) An immediate effort was made by transferring the applicant to a distant place so as the applicant cannot effectively respond to the selection by collecting

necessary data etc. -:10:-

4. The Tribunal, after adverting to the nature of the

composition of the Selection Committee apparently frowned upon the composition of the Selection Committee with the observation not wish to comment on the selection process. It was also noted that, the Chairman of the Selection Committee, though was impleaded, did not enter appearance. The Tribunal also found that Vedpal Singh did not possess the necessary qualifications. Accordingly, his selection was set aside and fresh selection was ordered. The Coconut Development Board challenges this order in O.P.(CAT).No.121/2019. Sasikumar challenges the order of the Tribunal ordering further selection in O.P.(CAT) No.216/2019 and Vedpal Singh challenges setting aside of his selection in O.P.(CAT) No.151/2020.

5. We shall now advert to the essential qualification

prescribed for the post of Assistant Director in the Coconut Development Board which is contentious in this matter - Six years experience in a responsible capacity in the formulation and implementation of coconut development projects. -:11:-

6. The nature of experience referred in the application submitted by Vedpal Singh is as follows:

1.Implementation of NHB schemes mainly "Technology Development & Transfer for promotion of Horticulture" and Commercial Horticulture Development through production & post harvest Management" and provide technical support to farmers/growers for cultivation under poly house & open filed of Vegetables, Fruits & Flowers under NHB scheme and to Coordinated in Exhibitions, Horti. Expo, Horti-fair, Flora, workshop/conferences and display & demonstration of NHB schemes as well horticulture produces like exotic vegetable, flowers & fruits and provide the technical guidance to the visitors during the events and To attend the official meeting in Medicinal Plant Board, Coconut Development Board, MOPI, All India Radio, SFAC, NCCD, NHM, NBM

for development of Horticulture.

2. Implementation of NHM, NBM, Technical Support Group (TSG) and co-ordination, liasoning works with DA C, and others ministries, departments.

3. To attend the official meeting in Medicinal Plant Board, Coconut Development Board, MOFPI, All India Radio, SFAC, NCCD, NHM, NBM for development of Horticulture.

4 Providing the wholesale price and arrivals of horticulture commodities (Fruits, Vegetables Flowers) on daily basis from Delhi centre under MIS scheme. Implementation of NHB schemes mainly "Commercial Development of Horticulture through production and post Harvest management" scheme at HQ and prepare agenda for put up in the PAC and IC meetings.

-:12:-

5. Prepared the reply of RTI application received at this centre.

6. Hindi report on quarterly basis send to HO in time.

7. Maintenance of office records, imprest accounts, account Books, cheque issuing register etc.

8. Other related works as and when required for smooth functioning of the centre".

7. The Tribunal found that absolutely no work experience

was possessed by Vedpal Singh in the coconut development projects. Tribunal noted that he was working as the Technical Officer in Horticulture Department and mere attending of meetings related to the coconut development projects, cannot ipso facto results in gaining experience for implementation of coconut development projects. We also endorse the view of the Tribunal. After adverting to the experience possessed by Vedpal Singh, we are not able to discern how the Selection Committee found he possesses necessary experience in implementing

coconut development projects. We, therefore, do not see any reason to disagree with the finding of the Tribunal. -:13:-

8. The next question is whether a fresh selection has to be

ordered or Sasikumar has to be selected being the next eligible candidate. It is to be noted that the entire selection process is not vitiated though some prejudice or bias might have been reflected leaning in favour of Vedpal Singh as the Selection Committee have chosen an unqualified candidate. If the selection process itself is not vitiated, there is no scope for conducting fresh selection. The selection of Vedpal Singh was found illegal as he was not qualified. Thus, nothing prevents the next eligible candidate in the select list prepared to be appointed to the post of Assistant Director in Coconut Development Board. Fresh selection would be necessary, if the entire selection process itself is vitiated. In such circumstances, we are of the view that the impugned order has to be modified directing the Coconut Development Board to appoint the next eligible candidate in the select list to the post of Assistant Director in the Coconut Development Board. Thus, O.P.(CAT) No.216/2019 is allowed and O.P.(CAT) Nos.121/2019 and 151/2020 are dismissed. Accordingly, we direct the Coconut -:14:- Development Board to appoint the next eligible candidate from the list in the post of Assistant Director.

Sd/- A.MUHAMED MUSTAQUE, JUDGE Sd/- SHOBA ANNAMMA EAPEN, JUDGE ms -:15:- APPENDIX OF OP (CAT) 216/2019 PETITIONER'S ANNEXURES: ANNEXURE A6 TRUE COPY OF THE PROCEEDINGS OF THE DEPARTMENTAL SELECTION COMMITTEE (GROUP A) MEETING HELD ON 27.02.2017. ANNEXURE A7 TRUE COPY OF THE MEMO WITH F NO.272/2001 DATED 07.04.2017 GIVING APPOINTMENT TO THE 5TH RESPONDENT. ANNEXURE A1 TRUE COPY OF THE ADVERTISEMENT PUBLISHED IN THE EMPLOYMENT NEWS DATED 30.07.2016. ANNEXURE A2 TRUE COPY OF THE CALL LETTER IN MEMO WITH F NO.272/2001-ADMN. DATED 07.02.2017. ANNEXURE A3 TRUE COPY OF THE RECOMMENDATIONS DATED 29.09.2016 OF THE COMMITTEE CONSTITUTED FOR SCREENING OF THE APPLICATIONS. ANNEXURE A4 TRUE COPY OF THE REPLY DATED 06/05.06.2017 GIVEN TO SHRI I. S. JAWAHAR UNDER THE RIGHT TO INFORMATION ACT. ANNEXURE A5 TRUE COPY OF THE RELEVANT

PORTION OF THE COCONUT DEVELOPMENT BOARD RECRUITMENT (AMENDMENT) REGULATIONS 2003. ANNEXURE A8 TRUE COPY OF THE ORDER WITH F.NO.272/2001 DATED 20.04.2017. EXHIBIT P1 TRUE COPY OF THE ORIGINAL APPLICATION NO.943/2017 WITH ANNEXURES (PAGES 10-50) RESPONDENT EXHIBITS: EXHIBIT R2A TRUE OF THE OFFICE MEMORANDUM NO. 28020/3/2018- ESTT. (C) DATED 11.3.2019 PETITIONER'S EXHIBITS EXHIBIT P2 TRUE COPY OF THE REPLY STATEMENT FILED BY THE 2ND RESPONDENT. EXHIBIT P3 TRUE COPY OF THE REJOINDER FILED BY THE PETITIONER. EXHIBIT P4 TRUE COPY OF THE ORDER DATED 26.03.2019 OF THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL IN O.A.NO.943/2017. -:16:- APPENDIX OF OP (CAT) 151/2020 PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE ORIGINAL APPLICATION 943/2017 WITH ANNEXURES EXHIBIT P1(A6) TRUE COPY OF THE PROCEEDINGS OF THE DEPARTMENTAL SELECTION COMMITTEE (GROUP A) MEETING HELD ON 27.2.2017 EXHIBIT P1 (A7) TRUE COPY OF THE MEMO WITH F NO,272/2001 DATED 07.04.2017 GIVING APPOINTMENT TO THE 5TH RESPONDENT EXHIBIT P1(A1) TRUE COPY OF ADVERTISEMENT PUBLISHED IN THE EMPLOYMENT NEWS DATED 30.7.2016 EXHIBIT P1(A2) TRUE COPY OF THE CALL LETTER IN MEMO WITH F.NO.272/2001-ADMN DATED 07.02.2017 EXHIBIT P1(A3) TRUE COPY OF THE RECOMMENDATIONS DATED 29.09.2016 OF THE COMMITTEE CONSTITUTED FOR SCREENING OF THE APPLICATIONS EXHIBIT P1(A4) TRUE COPY OF THE REPLY DATED 06.06.2017 GIVEN TO SHRI.I.S JAWAHAR UNDER THE RIGHT TO INFORMATION ACT EXHIBIT P1(A5) TRUE COPY OF THE RELEVANT PORTION OF THE COCONUT DEVELOPMENT BOARD RECRUITMENT (AMENDMENT) REGULATIONS 2003 EXHIBIT P1(A8) TRUE COPY OF THE ORDER WITH F.NO.272/2001 DATED 20.04.2017 EXHIBIT P2 TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE PETITIONER/ RESPONDENTS IN OS 943/2017 EXHIBIT P3 TRUE COPY OF THE REJOINDER FILED BY THE 1ST RESPONDENT IN OA 943/2017 EXHIBIT P4 TRUE COPY OF THE FINAL ORDER DATED 26.03.2019 IN OA TRIBUNAL, ERNAKULAM BENCH EXHIBIT P5 TRUE COPY OF THE CERTIFICATE DATED 25.10.2019 ISSUED BY THE DEPUTY DIRECTOR,

NATIONAL HORTICULTURAL BOARD. -:17:- APPENDIX OF OP (CAT) 121/2019 PETITIONERS' EXHIBITS: EXHIBIT P1 TRUE COPY OF THE ORIGINAL APPLICATION 943/2017 WITH ANNEXURES PAGES 9-49. Exhibit P1(A1) TRUE COPY OF THE PROCEEDINGS OF THE DEPARTMENTAL SELECTION COMMITTEE (GROUP A) MEETING HELD ON 27.2.2017 Exhibit P1(A2) TRUE COPY OF THE MEMO WITH F NO. 272/2001 DATED 07.04.2017 GIVING APPOINTMENT TO THE 5TH RESPONDENT. Exhibit P1(A3) TRUE COPY OF THE ADVERTISEMENT PUBLISHED IN THE EMPLOYMENT NEWS DATED 30.7.2016 Exhibit P1(A4) TRUE COPY OF CALL LETTER IN MEMO WITH F NO. Exhibit P1 (A5) TRUE COPY OF THE RECOMMENDATIONS DATED 29.09.2016 OF THE COMMITTEE CONSTITUTED FOR SCREENING OF THE APPLICATIONS Exhibit P1 (A6) TRUE COPY OF THE REPLY DATED 06/05.06.2017 GIVEN TO SHRI I.S. JAWAHAR UNDER THE RIGHT TO INFORMATION ACT. Exhibit P1(A7) TRUE COPY OF THE RELEVANT PORTION OF THE COCONUT DEVELOPMENT BOARD RECRUITMENT (AMENDMENT) REGULATIONS 2003 Exhibit P1(A8) TRUE COPY OF THE ORDER WITH F.NO.272/2001 DATED 20.04.2017 EXHIBIT P2. TRUE COPY OF THE REPLY STATEMENT FIELD ON BEHALF OF THE PETITIONERS,/RESPONDENTS IN OA. EXHIBIT P3 TRUE COPY OF THE REJOINDER FILED BY THE 1ST RESPONDENT. EXHIBIT P4 TRUE COPY OF THE FINAL ORDER DATED 26/3/3029 IN O.A. NO. 943/2017 PASSED BY THE CENTRAL ADMINISTRATIVE, TRIBUNAL, ERNAKULAM BENCH. EXHIBIT P5 TRUE COPY OF THE REPRESENTATION DATED 1.05.2020 SUBMITTED BY THE 3RD RESPONDENT BEFORE NATIONAL HORTICULTURE BOARD THROUGH PROPER CHANNEL. EXHIBIT P6 TRUE COPY OF THE COMMUNICATION DATED 13.05.2020 ISSUED ON BEHALF OF NATIONAL HORTICULTURE BOARD. EXHIBIT P7 TRUE COPY OF THE REQUEST DATED 13.05.2020 FOR EXTENSION OF LIEN OF 3RD RESPONDENT SUBMITTED BY THE PETITIONER.