

S. Geetha vs State of Kerala

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Court : Kerala

Decided On : Jul-14-2022

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/2012/2022

Appellant : S. Geetha

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY, THE 14TH DAY OF JULY 2022 / 23RD ASHADHA, 1944 WP(C) NO. 2012 OF 2022 PETITIONER: S. GEETHA AGED 58 YEARS MANAGER, MANKAVU BRANCH, CALICUT CO-OPERATIVE URBAN BANK LTD.NO.1538, KALLAI ROAD, KOZHIKODE, POTTANGADI HOUSE, POTTANGADI RAGHAVAN ROAD, WEST NADAKKAVU, CALICUT. BY ADVS. B.S.SWATHI KUMAR ANITHA RAVINDRAN SARANGADHARAN P. NAVVYA UNNI RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, CO-OPERATIVE (A) DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 THE JOINT REGISTRAR OF

CO-OPERATIVE SOCIETIES (G) PUTHIYARA, KOZHIKODE - 673 004.
3 THE CALICUT CO-OPERATIVE URBAN BANK LTD.NO.1538 KALLAI
ROAD, KOZHIKODE - 673 002 REPRESENTED BY ITS GENERAL
MANAGER. BY ADVS. V.KRISHNA MENON J.SURYA PRINSUN
PHILIP OTHER PRESENT: SRI.JOSHY THANIKAMATTAM-GP THIS
WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14.07.2022, ALONG WITH WP(C).6696/2022, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN
RAMACHANDRAN THURSDAY, THE 14TH DAY OF JULY 2022 / 23RD
ASHADHA, 1944 WP(C) NO. 6696 OF 2022 PETITIONER: S.GEETHA
AGED 58 YEARS ASSISTANT GENERAL MANAGER (RETD),
CALICUT CO-OPERATIVE URBAN BANK LTD NO. 1538, KALLI ROAD,
KOZHIKODE, POTTANGADI HOUSE, POTTANGADI RAGHAVAN
ROAD, WEST NADAKKAVU, CALICUT - 673011. BY ADVS.
B.S.SWATHI KUMAR ANITHA RAVINDRAN SARANGADHARAN P.
RESPONDENTS: 1 THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G) PUTHIYARA, KOZHIKODE - 673004. 2 THE CALICUT
CO-OPERATIVE URBAN BANK LTD. NO. 1538. KALLAI ROAD,
KOZHIKODE, PIN - 673002, REPRESENTED BY ITS GENERAL
MANAGER. BY ADVS. V.KRISHNA MENON P.VIJAYAMMA J.SURYA
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14.07.2022, ALONG WITH WP(C).2012/2022, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Both these cases are filed by the same petitioner, Smt.S.Geetha.

2. The petitioner says that she has retired from the services of the Calicut Co-operative Urban Bank Limited (hereinafter referred to as the Society for short), on attaining the age of superannuation, on 31/01/2022. She says that she was eligible

to be promoted as

Assistant General Manager with effect from 01/07/2016, when the vacancy in the said post became available; but that instead of doing so, the Society denied her the said benefit and was granted it only on her because the pensionary benefits are detrimentally affected; and, therefore, that she has been constrained to approach this Court through W.P.(C)No.2012/2022, seeking that she be granted promotion with the effect from 01/07/2016 and further through W.P. (C)No.6696/2022, because the Society has informed her, through Exts.P3 and P9, that pensionary benefits cannot be computed reckoning that she had been promoted with effect from 01/07/2016.

3. Smt.Shamila N.S. - learned counsel for the petitioner,

further submitted that in view of a clarification now obtained from the Government, pending this lis, it has become indubitable that the post in question could have been filled up only through promotion in the year 2016; and, therefore, that her client is imminently eligible to be considered and granted the same. She, therefore, prays that the reliefs sought for in these writ petitions be granted.

4. Sri.Krishna Menon - learned Standing Counsel for the

Society, on the other hand, submitted that - a detailed counter affidavit has been filed on record averring that even if the post of Assistant General Manager which became vacant on 01.07.2016, was to be filled up by promotion, the petitioner would not obtain any benefit because there were at least two other persons senior to her at that time. He conceded that, however, nothing stops his client from considering the petitioner's claim, but sought liberty to keep in mind the afore fact also while doing so. He then submitted that, as

regards the petitioner's claims in W.P.(C)No.6696/2022 are concerned, Exts.P3 and P9 have been issued therein because W.P. (C)No.2012/2022 was pending before this Court. He added that, in any event, the petitioner's retiral benefits can be granted only after settlement of all her liabilities and sought leave for his client to do so, after assessing her entitlement to be promoted to the post of Assistant

General Manager in the year 2016.

5. Sri.Joshy Thanikamattom - learned Government Pleader, submitted that the issues involved in these cases are, as of now, between the petitioner and the Society and that the official respondents do not have any role to play.

6. When I consider the afore submissions, it is without doubt

that, as of now, even the Society concedes that the vacancy of Assistant General Manager, which became available on 01.07.2016, could have been filled up only through promotion.

7. Obviously, therefore, the petitioner's claim for being promoted to that vacancy will have to be considered; however, after considering the claims of any other person, who may have a better case to project.

8. That said, the petitioner's retiral benefits will, thereafter, require to be assessed and computed, taking note of all relevant and germane aspects, which I am certain shall be done without any avoidable delay thereafter.

Resultantly, I dispose of these writ petitions with the following orders: a) W.P.(C)No.2012/2022 is ordered to the limited extent of directing the competent Authority of the Society to consider the claim of the petitioner, along with that of any other person who may also be interested, for being promoted to the post of Assistant General Manager with effect from 01.07.2016 when the vacancy became available, after affording all of them an opportunity of being heard; thus culminating in an appropriate order and necessary action

thereon, as expeditiously as is possible, but not later than six weeks from the date of receipt of a copy of this judgment. For this purpose, I direct the petitioner to mark appearance before the General Manager of the Society at 11.00 am on 27.07.2022; on which day, said Authority will fix a convenient date for hearing, as also the other affected parties and complete proceedings as ordered above.

(b) On the Society taking a decision as afore, the petitioner's

pensionary benefits will be computed and requisite papers forwarded to the Employees Co-operative Pension Board, along with all necessary contributions without any further delay, but not later than one month therefrom. For this purpose, I direct the petitioner to make available all the documents which are required to be given by her and also leave liberty to the Bank to make computation taking note of any liability that may be legally permissible to be enforced against her.

SD/- DEVAN RAMACHANDRAN JUDGE ANB/rp APPENDIX OF WP(C) 6696/2022 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE ORDER NO. CCUB/EST/OFF- ORD/12/2021-22 DATED 20.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P2 TRUE COPY OF THE PROCEEDINGS NO. CCUB/EST/PROCE-12- 2021-22 DATED 20.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P3 TRUE COPY OF THE ORDER NO. CCUB/EST/OFF- ORD/14/2021-22 DATED 28.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P4 TRUE COPY OF THE ORDER NO. CCUB/EST/OFF- ORD/15/2021- 22 DATED 29.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P5 TRUE COPY OF THE ORDER NO. CCUB/EST/LETT-55/2021-22 DATED 27.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P5(A) TRUE COPY OF THE ORDER NO. CCUB/EST/LETT-53/2021-22 DATED 27.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P6 TRUE COPY OF THE ORDER NO. CCUB/EST/NOTICE-50/2021- 22 DATED 31.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P7 TRUE COPY OF THE ORDER NO. CCUB/EST/NOTICE-51/2021-22 DATED 31.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P8 TRUE COPY OF THE ORDER NO. CCUB/EST/NOTICE-52/2021- 22 DATED 31.01.2022 OF THE 2ND RESPONDENT. EXHIBIT P9 TRUE COPY OF THE ORDER NO. CCUB/EST/LETT-59/2021-22 DATED 04.02.2022 OF THE 2ND RESPONDENT. APPENDIX OF WP(C) 2012/2022 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE CERTIFICATE NO. 09140 DATED EXAMINATION BOARD. EXHIBIT P1(A) TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 21.6.2016. EXHIBIT P1(B) TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 7.3.2018. EXHIBIT P2 TRUE COPY OF THE ORDER NO. CO-OPA2/232/2020/CO-OP

DATED 17/12/2021. EXHIBIT P3 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE 3RD RESPONDENT DATED 13/11/2020. EXHIBIT P4 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED EXHIBIT P5 TRUE COPY OF THE ORDER NO.CCUB/EST/OFF-ORD/12/2021- 22 DATED 20.01.2022 OF THE 3RD RESPONDENT. EXHIBIT P6 TRUE COPY OF THE PROCEEDINGS NO.CCUB/EST/PROCE- EXHIBIT P7 TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 25.01.2022 RESPONDENT EXHIBITS EXT.R3(A) COPY OF THE COMMON JUDGMENT IN W.P.(C) NOS.3707/2018 AND 18541/2019 DATED 26.8.2019. EXT.R3(B) COPY OF THE ORDER DATED OF THE FIRST RESPONDENT DATED 17.12.2019. EXT.R3(C) COPY OF THE LETTER DATED 6.1.2020. EXT.R3(D) COPY OF THE RELEVANT PAGE OF THE SENIORITY LIST THAT HAD BEEN APPROVED BY THE MANAGING COMMITTEE OF THE BANK ON 10.3.2021. EXT.R3(E) COPY OF THE LETTER DATED 8.6.2022.

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