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Aravind Raj vs the Kerala State Backward Classes Development Corporation

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Court : Kerala

Decided On : Jul-31-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/23484/2023

Appellant : Aravind Raj

Respondent : The Kerala State Backward Classes Development Corporation

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN MONDAY, THE 31ST DAY OF JULY 2023 / 9TH SRAVANA, 1945 WP(C) NO. 23484 OF 2023 PETITIONERS:

1 ARAVIND RAJ AGED 34 YEARS S/O.RAJAGOPALAN S., NISHAGANDHI, BLOCK ROAD, OLLUKKARA P.O., THRISSUR, PIN - 680655 2 PRASHANTH C. AGED 42 YEARS S/O CHITHRAN R., PRASANTH BHAVAN, AMBALAKKULANGARA EAST, MANNANCHERRY P.O., ALAPPUZHA, PIN - 688538 3 BINDU BALAKRISHNAN AGED 44 YEARS W/O RAJAGOPAL E.N., EECHIRATH HOUSE, THAYAMKAAVU, CHUNDEL P.O., THRISSUR,

PIN - 680520 4 SOURABHYA VIJAYAN AGED 39 YEARS D/O VIJAYAN P.K., PALANILKUNNATHIL HOUSE, OTHERA WEST P.O., PATHANAMTHITTA, PIN - 689551 5 SABISHA M.S AGED 37 YEARS D/O SANKAR M.L., MANALIVILA HOUSE, PENGAMUKK P.O., THRISSUR, PIN - 680544 6 SHEEJA K.M AGED 44 YEARS W/O.ABDUL AZEEZ, KANJIRAKKATTU MOLEL, IRAMALLOOR, KOTHAMANGALAM P.O., ERNAKULAM, PIN - 686691 7 JASEENA K.M AGED 34 YEARS W/O.ARUNLAL DAS, ARJAVAM, KARIYAM, POWDIKONAM P.O., THIRUVANANTHAPURAM, PIN - 695588 8 DEEPA C.A AGED 33 YEARS W/O.MANIKANDAN, ARYAMPADAM HOUSE, AKKAPARAMBU STREET, THIRUVILUAMALA P.O., THRISSUR, PIN - 680580 9 REKHA M.G AGED 35 YEARS W/O.ARUN KRISHNAN R.B., ARUPARAKKALA VEEDU, PUZHANAD P.O., THIRUVANANTHAPURAM, PIN - 695125 10 ANNA IBY T.J AGED 37 YEARS W/O.XAVIER M.J., MUZHIYANKAL, KANNAMALI P.O., CHELLANAM, ERNAKULAM, PIN - 682008

11 ARCHANA M.S AGED 36 YEARS W/O.SHAJU K.S., RAKESH BHAVAN, KAROOR, POTHENCODE P.O., THIRUVANANTHAPURAM, PIN - 695584 12 SYAMA OMANAKUTTAN AGED 36 YEARS W/O.SREEKANTH S., VADAKUMTHARA PUTHENVEEDU, EDAMULAKKAL P.O., KOLLAM, PIN - 691306 13 FRIGIL M. AGED 32 YEARS S/O.BALAN M., PAKUTHI PARAMBATH, PUTHOOR, PANOOR ROAD, KANNUR, PIN - 670692 BY ADVS. SHABU SREEDHARAN S.DHEERENDRAKUMAR

RESPONDENTS: 1 THE KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION REPRESENTED BY ITS MANAGING DIRECTOR, SENTINEL, 2ND FLOOR, T.C. NO. 27 / 588 (7) & (8), VANCHIYOOR P.O., THIRUVANANTHAPURAM, PIN - 695035 2 THE MANAGING DIRECTOR KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION, SENTINEL, 2NDFLOOR, T.C. NO. 27 / 588

(7) & (8), VANCHIYOOR P.O., THIRUVANANTHAPURAM,

PIN - 695035 3 THE KERALA PUBLIC SERVICE COMMISSION REPRESENTED BY ITS SECRETARY, THULASI HILLS, PATTOM PALACE P.O., THIRUVANANTHAPURAM, PIN - 695004 4 THE CONTROLLER OF EXAMINATIONS KERALA PUBLIC SERVICE COMMISSION, THULASI HILLS, PATTOM PALACE P.O., THIRUVANANTHAPURAM, PIN - 695004 5 STATE OF KERALA REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT OF KERALA, DEPARTMENT OF BACKWARD CLASSES DEVELOPMENT, SECRETARIAT,G.P.O., THIRUVANANTHAPURAM, PIN - 695001 BY ADV M.SASINDRAN SRI.P.C.SASIDHARAN [SC] SMT.K.G.SAROJINI [GP] THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 31.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 23484 OF 2023 3

JUDGMENT

The petitioners seek directions to be issued to respondents 1, 2 and 5 to fix an apposite ratio between candidates who are promoted while in service and those who are directly recruited, to the post of Project Assistant/Unit Manager or Accountant/Senior Assistant in the 1st respondent - Corporation, within a time frame to be fixed by this Court.

2. Interestingly, Sri.M.Sasindran - learned Standing Counsel

appearing for respondent No.1, submitted that petitioners have approached this Court directly without having made any representation before his client and that if they have to do so, its competent Authority will consider it in terms of law. He explained that he is making this submission because fixing of ratio is virtually a delegated legislative exercise and cannot be ordered to be done by this Court normally, while acting under Article 226 of the Constitution of India.

3. I must say that there is great force in the afore submissions of

Sri.M.Sasindran because, the issue whether there should be a ratio between directly recruited persons and those who are in service is a matter, at the first instance, to be decided by the competent Authority WP(C) NO. 23484 OF 2023 4 of the 1st respondent - Corporation. It cannot be ordered affirmatively by this Court while exercising writ jurisdiction. In the afore circumstances, I allow this writ petition, granting liberty to the petitioners to approach the 1 st respondent through an apposite representation; and if this is done within a period of two weeks from the date of receipt of a copy of this judgment, same shall be considered by its competent Authority, after affording them an

opportunity of being heard; thus culminating in an appropriate order

and necessary action, as expeditiously as is possible, but not later than three months from the date on which such representation is made. Sd/- DEVAN RAMACHANDRAN JUDGE MC/1.8 WP(C) NO. 23484 OF 2023 5 APPENDIX OF WP(C) 23484/2023 PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF THE SENIORITY LIST OF JUNIOR ASSISTANTS, KSBCDC AS ON 10/05/2023 (AS PER G.O.(MS)NO. 10/2021/ BCDD DATED RESPONDENT Exhibit-P2 A TRUE COPY OF THE ORDER DATED 21/09/2021 ISSUED BY THE DEPARTMENT OF BACKWARD CLASSES DEVELOPMENT (A), Exhibit-P3 A TRUE COPY OF THE EXTRA ORDINARY GAZETTE

DATED 15/03/2021 FOR RECRUITMENT TO THE POST OF PROJECT ASSISTANT / UNIT MANAGER, PUBLISHED BY THE 3RDRESPONDENT COMMISSION Exhibit-P4 A TRUE COPY OF THE EXTRA ORDINARY GAZETTE DATED 15/03/2021 FOR RECRUITMENT TO THE POST OF ACCOUNTANT / SENIOR ASSISTANT, PUBLISHED BY THE 3RD RESPONDENT COMMISSION Exhibit-P5 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE GENERAL SECRETARY OF B.C.D.C. EMPLOYEES ASSOCIATION DATED 9.5.2023 Exhibit-P6 A TRUE COPY OF THE REPRESENTATION DATED SECRETARY OF B.C.D.C. EMPLOYEES ASSOCIATION, BEFORE THE 2ND RESPONDENT

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