

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WA.No. 1903 of 2015 () IN WP(C).25428/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 25428/2015 of HIGH COURT
OF KERALA DATED 21.08.2015

APPELLANT(S) : /PETITIONERS

1. GLADIS DANIEL,
W/O.LATE JACOB JOSEPH, AGED 56 YEARS,
EXTENSION INSPECTOR, COFFEE BOARD,
VAZHAVARA POST, PIN - 685 515,
RESIDENT OF THOPPIL HOUSE, PERUMTHURUTHY,
THIRUVALA POST, PATHANAMTHITTA - 689 107.
2. THE COFFEE BOARD EMPLOYEES ASSOCIATION KERALA,
REGISTRATION NO.11/02/2011, KALPETTA,
WAYANAD - 673 121.

BY ADV. SRI.P.B.KRISHNAN

RESPONDENT(S) : /RESPONDENTS

1. THE COFFEE BOARD
REPRESENTED BY ITS CHAIRMAN, NO.1,
DR.AMBEDKAR VEEDHI
BANGALORE - 560 001.
2. THE SECRETARY
COFFEE BOARD, NO.1, DR.AMBEDKAR VEEDHI
BANGALORE - 560 001.
3. A.K.PAVITHRAN
JUNIOR LIAISON OFFICER, COFFEE BOARD,
BODINAYAKANUR
TAMIL NADU - 625 513.

R1 & R2 BY SRI.M.GOPIKRISHNAN NAMBIAR, SC

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-09-2015,
ALONG WITH W.A.NOS.1906 & 1907 OF 2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

.....
W.A.Nos.1903, 1906 and 1907 of 2015
.....

Dated this the 1st day of September, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. These writ appeals are filed against interlocutory orders passed by the learned single Judge in three writ petitions.
2. The first respondent Coffee Board carried out an exercise of de-merger. That led to an earlier round of litigation which resulted in judgment dated 13.04.2012 in WP(C) No.37074 of 2010 and connections, whereby the learned single Judge set aside the de-merger decisions and issued certain directions. That was affirmed by the Division Bench of this Court through the judgment dated 16.09.2014 in WA No.1565 of 2012 and connections. Those matters have by now gained attention of the Honourable Supreme Court of India through Special Leave Petition Nos.36152 – 36154 of 2014 in which, as of now, there are

interlocutory orders issued on 07.01.2015 and 20.07.2015. The Coffee Board stands permitted through the second among those orders to proceed with the recruitment to fill up the 37 vacancies in accordance with law, however that, any such recruitment shall be made subject to the result of the SLPs. It was also clarified that insofar as the contesting respondent A.K.Pavithran is concerned, the order of status quo issued on 07.01.2015 would continue.

3.It appears that the Coffee Board authorities proceeded with the recruitment process. The writ petitions from which these writ appeals arise were then filed by Coffee Board employees and one of their associations. The parties herein are not parties to the proceedings now pending before the Honourable Supreme Court of India. The exercise now being carried out on the strength of the interlocutory order granted by the Honourable Supreme Court of India is sought to be impeached in the present writ petitions. The learned single Judge through the impugned interlocutory

orders has refused to grant any order interdicting the de-merger process.

4. Adv.P.B.Krishnan appearing on behalf of the appellants is justified in pointing out that in paragraph No.5 of the impugned order dated 21.08.2015 in WP(C) No.25402 of 2015, the learned single Judge had erroneously stated that the permission granted by the Apex Court was for the Board to proceed with the recruitment to fill up the 37 vacancies in accordance with Ext.P7 proceedings dated 30.05.2011. What Their Lordships insisted through the interlocutory order dated 20.07.2015 is that the recruitment shall be in accordance with law. It is also worthwhile to note, at this point of time, that the correctness or otherwise of Ext.P7 proceedings dated 30.05.2011 is the subject matter of the SLPs, since that was the proceedings that was quashed by the learned single Judge in the earlier round.

5. Be that as it may, notwithstanding the aforementioned error, we are of

the view that it would not have been within the domain of the learned single Judge to pass any interlocutory order touching the so-called recruitment proceedings or the de-merger proceedings, when the Honourable Supreme Court of India is in seisin of the matter and has made all such actions subject to the result of those SLPs. Therefore, even if any recruitment process takes place, that would be subject to the result of the SLPs pending before the Honorable Supreme Court of India. Hence, we do not find any legal infirmity or error in the learned single Judge having declined interim stay that was sought for, however clarifying that the implementation of Exts.P16 and P17 will be subject to the result of the writ petitions. To clear the field of any sustainable uncertainty in that regard, the learned standing counsel for the Coffee Board submits that within a fortnight from now, the Coffee Board will place an affidavit before the learned single Judge ensuring that the existing employees are not disturbed or deprived of their due promotions and the modality to ensure such activity in preference

to the new recruits. We record this submission. We also record the submission on behalf of the writ appellants that the said proposal of the Coffee Board should be carried out by ensuring that all rights of the existing employees, including seniority, are protected. We hasten to add that we have not expressed anything finally on that matter either.

In view of the offer made on behalf of the Coffee Board to place affidavit, let the writ petitions be listed before the learned single Judge on 17.09.2015. These writ appeals are ordered accordingly.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(ANU SIVARAMAN, JUDGE)