

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WA.No. 2350 of 2015 () IN WP(C).20902/2014

AGAINST THE JUDGMENT IN WP(C) 20902/2014 DATED 30.9.2015

APPELLANT(S)/2ND PETITIONER IN W.P. :-

BIJUKUMAR T., AGED 37 YEARS,
S/O.THANKASWAMY (LATE), 'BETHSAIDA', PLAMTHOTTAM
TIRUPURAM P.O., NEYYATTINKARA
THIRUVANANTHAPURAM - 695 133.

BY ADVS.SRI.T.B.HOOD
SMT.M.ISHA
SRI.AMAL KASHA

RESPONDENT(S)/RESPONDENTS AND PETITIONERS 1, 4 & 5 IN W.P. :-

1. KERALA PUBLIC SERVICE COMMISSION
PATTOM, PIN - 695 004, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.
2. KERALA WATER AUTHORITY
JALA BHAVAN, THIRUVANANTHAPURAM - 695 033
REPRESENTED BY ITS MANAGING DIRECTOR.
3. THE DEPARTMENT OF FINANCE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
REPRESENTED BY ITS PRINCIPAL SECRETARY.
4. STATE OF KERALA REPRESENTED BY THE PRINCIPAL SECRETARY
WATER RESOURCES (WSB) DEPARTMENT
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 1.
5. PRATHAPAN P., AGED 28 YEARS
S/O.PRABHAKARAN, "ASWATHI", VANDOOOR (VIA)
CHATHENGOTTUPURAM P.O., MALAPPURAM - 679 328.
6. DEEPU H., AGED 29 YEARS
S/O.HARIDAS, KIZHAKKEVELIYIL, KATTOOR P.O.
SARVODAYAPURAM, ALAPPUZHA - 688 546.
7. SAJID P., AGED 26 YEARS
S/O.MOOSA, KALLIDUMBIL HOUSE, AMAYOOR P.O.
MALAPPURAM - 676 123.

BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS
BY SRI.MILLU DANDAPANI
BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.2350 of 2015

Dated this the 29th day of October 2015

J U D G M E N T

Ashok Bhushan, CJ.

Heard.

2. This writ appeal has been filed against the judgment dated 30.9.2015, by which, the learned Single Judge dismissed the writ petition filed by the appellant and respondents 5 to 7. The writ petition was filed seeking for a direction to the 2nd respondent to report the existing vacancies of Fitter in the Kerala Water Authority (for short 'KWA") to the first respondent for issuing Advice Memo. Petitioners' case in the writ petition was that the total strength of Fitter category including Head Fitter in the KWA is 127. But only 117 vacancies have been filled up and therefore, at present 10 vacancies still exist to be filled up.

3. Counter affidavit was filed by the KWA, wherein, it was pleaded that the sanctioned strength of Fitter including the Head Fitter is only 117 and not 127 as claimed by the

petitioners. The learned Single Judge dismissed the writ petition accepting the plea raised by the KWA that the number of posts of Fitter is only 117 and there are no vacancy, which could have been reported.

4. Learned counsel for the appellant, challenging the judgment of the learned Single Judge, refers to certain information obtained under the Right to Information Act, Exts.P6, P7, P11 and P12.

5. The learned Single Judge has considered all the materials on record and the pleadings including the Note of the KWA. The learned Single Judge observed that the ratio of 1:5 does not mean that there should be posts five times of the persons working as Head Fitter. It was found that since the total vacancies of Fitter and Head Fitter being 117, there are no vacancies to be reported.

6. The appellant, by this appeal, has challenged the findings recorded by the learned Single Judge based on consideration of materials. We are of the view that in the appellate exercise of jurisdiction, this Court shall not interfere into the said findings. The learned Single Judge has recorded

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the finding of fact after considering the relevant materials. The KWA has also brought on record the proceedings of the Managing Director dated 6.9.2013 filed as Ext.R2(a), wherein, it was stated that the newly arrived two vacancies of Fitter were reported to the Kerala Public Service Commission. In the first paragraph of the order it was stated that the total number of sanctioned post of Fitter including the Head Fitter is 117.

7. In paragraph 5 of the Statement filed on behalf of the 3rd respondent, it was clarified by the learned Special Government Pleader that the total sanctioned posts are 117. Paragraph 5 of the statement reads as under :-

“5. As per the available records the sanctioned strength of Fitter including Head Fitter in the 2nd respondent is 117. Initially in the Pay Revision Book and Budget Book the sanctioned strength of Fitter including Head Fitter was given as 127 and on verification which was conducted on the basis of the various complaints and on examining the records with the 2nd respondent the actual sanctioned strength of Fitter including Head Fitter is 117. Therefore, no vacancy of Fitter is pending at present in the Department of the 2nd respondent that is to be filled by the 1st respondent.”

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8. Taking into consideration all the aforesaid facts and materials, we are of the view that the judgment of the learned Single Judge need no interference in exercise of appellate jurisdiction.

Accordingly, this writ appeal is dismissed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

//TRUE COPY//

P.A. TO JUDGE