IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 14TH DAY OF MARCH 2022 / 23RD PHALGUNA, 1943

WP(C) NO. 10914 OF 2020

PETITIONER/S:

ABDUL JASEER A
AGED 1 YEARS
S/O.ABDUL VAHAB, JASEER MANZIL, KAIPPADI,
VENCODE P.O., VATTAPARA (VIA),
THIRUVANANTHAPURAM, PIN-695028.
BY ADV K.P.SUJESH KUMAR

RESPONDENT/S:

1 KERALA SMALL INDUSTRIES DEVELOPMENT CORPORTION LIMITED
6TH FLOOR, HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM, PIN-695001,
REPRESENTED BY ITS MANAGING DIRECTOR.

2 MANAGING DIRECTOR ,
KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LIMITED, 6TH FLOOR, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM, PIN-695001
BY ADV SRI.G.BIJU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 14th day of March , 2022

The petitioner had applied for the post of Unskilled Worker Grade IV in the first respondent Corporation, pursuant to Annexure R1(a) notification dated 10.10.2013. The petitioner had appended necessary documents to show that he is entitled for consideration in the reservation quoata for physically disabled persons. Annexure R1(a) notification was for filling up 40 vacancies, but the Corporation proceeded to appoint 151 persons without even publishing a rank list. The Petitioner was one among the 151 persons thus appointed.

2. The selection and appointment pursuant to Annexure R1(a) notification was subjected to challenge in a series of writ petitions before this Court. The challenge was upheld and the appointment made pursuant to Annexure R1(a) were

cancelled. The first respondent Corporation was directed to proceed from the stage of interview onwards afresh. In writ appeal, a Division Bench of this Court permitted the Corporation to proceed with the process of selection by conducting fresh interview. Accordingly, a rank list was drawn up and 40 persons appointed from the list. Petitioner, though included in the rank list, did not fall within the 40 persons thus appointed. The petitioner being a physically challenged person, represented to the Corporation requesting appointment under the mandatory 3% reservation under the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('PWD Act'). The first respondent Corporation refused to consider the claim on the premise that the petitioner had not submitted his application as a disabled candidate.

3. I heard the learned Counsel for the

petitioner and the learned Standing Counsel for the respondents.

4. Indisputably, 3% of all appointments made to identified posts are reserved for persons with disabilities as per Section 34 of the PWD Act, 1996. There is no dispute to the fact that the petitioner is a person having a disability, as defined under Section 2(i) of the PWD Act. As such, he has a statutory right to be considered for appointment.

4. During the course of arguments, it was submitted that, out of the 40 persons appointed, some have left the service and presently, 7 vacancies are available. Being so, I deem it appropriate to direct the respondents to appoint the petitioner to one among the available vacancies, considering the appointment to be in accordance with the mandate of the PWD Act.

In the result, the writ petition is disposed of, directing the respondents to appoint the

petitioner to one among the vacant posts of Unskilled Worker Grade IV in the first respondent Corporation within one month of receipt of a copy of this judgment.

Sd/-

V.G.ARUN
JUDGE

Scl/

APPENDIX OF WP(C) 10914/2020

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE GOVERNMENT OF KERALA DATED 23.01.2014.
EXHIBIT P2	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT, DATED 20.07.2019.
EXHIBIT P3	TRUE COPY OF THE JUDGMENT IN WPC NO.24353/2020 ON THE FILE OF THIS HONOURABLE COURT, DATED 9.10.2019.
EXHIBIT P4	TRUE COPY OF THE ORDER PASSED BY THE SECOND RESPONDENT, DATED 15.02.2020.
Exhibit P5	TRUE COPY OF THE LETTER ISSUED BY THE SECOND RESPONDENT.
Exhibit P6	TRUE COPY OF THE LETTER ISSUED BY THE ADMINISTRATIVE OFFICER OF THE FIRST RESPONDENT, DATED 30/09/2019.
Exhibit P7	TRUE COPY OF THE G.O.(P) NO.20/98/P & ARD DATED 14/07/1998.
Exhibit P8	TRUE COPY OF THE INFORMATION FURNISHED UNDER THE RIGHT TO INFORMATION ACT, DATED 16/08/2019.

RESPONDENT'S EXHIBITS:

ANNEXURE R1(a) – TRUE COPY OF THE NOTIFICATION ISSUED BY

THE 2ND RESPONDENT DATED 10.10.2013.