

(1984) 07 KL CK 0053

High Court Of Kerala

Case No: O.P. No. 3348 of 1983

O.J. Antony and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision: July 2, 1984

Acts Referred:

- Industrial Disputes Act, 1947 - Section 7, 7(3)

Citation: (1984) KLJ 571

Hon'ble Judges: K. Bhaskaran, Acting C.J.; M.P. Menon, J

Bench: Division Bench

Advocate: T.P. Kelu Nambiar and P. Devakikutty, for the Appellant; C.P. Sudhakara Prasad, for the Respondent

Judgement

K. Bhaskaran, Ag. C.J.

1. The sole question that falls for decision in this writ petition is whether a writ of mandamus or direction to the 1st respondent to consider the claims of Judicial Magistrates, who have held office for not less than seven years, for appointment to be Presiding Officers of the Labour Courts, could be issued. We have heard Sri T.P. Kelu Nambiar, the counsel for the petitioners, and Sri C.P. Sudhakara Prasad, the counsel for additional respondents 3 and 4, at considerable length. The legal question, in our view, admits of no doubt, as it has been clearly laid down in sub-section (3) of section 7 of the Industrial Disputes Act as follows:-

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless -

(a) he is, or has been, a Judge of a High Court; or

(b) he has, for a period of not less than three years been a District Judge or an Additional District Judge; or

- (c) he has held the office of the chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950), or of any Tribunal, for a period of not less than two years, or
- (d) he has held any judicial office in India for not less than seven years; or
- (e) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

(emphasis supplied)

A plain reading of the sub-section makes it very clear that a person falling under any one of clauses (a) to (e) is eligible for being appointed presiding officer of the Labour Court. The Government being the appointing authority the right to make the choice, consistent with their policy, from among the five categories mentioned in clauses (a) to (e) of section 7(3) of the Act quoted above rests with them, subject, of course, with the concurrence of the High Court where the intention is to appoint a sitting Judge to be the presiding officer of the Labour Court.