

**Suresh Thomas Vs. Group Commander**

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**SooperKanoon Citation :** [sooperkanoon.com/1013009](http://sooperkanoon.com/1013009)

**Court :** Kerala

**Decided On :** Jan-28-2013

**Judge :** Honourable Mr.Justice P.N.Ravindran

**Appellant :** Suresh Thomas

**Respondent :** Group Commander

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN MONDAY, THE 28TH DAY OF JANUARY 2013 8TH MAGHA 193 WP(C).No. 28886 of 2012 (I) ----- PETITIONER(S): ----- SURESH THOMAS AGED 4 YEARS S/O.THOMAS,MYLETTHU HOUSE,KARIKUTTOOR P.O. KOTTAYAM DISTRICT,KERALA. BY ADVS.SRI.B.GOPAKUMAR SRI.JEEVAN MATHEW MANAYANI RESPONDENT(S): ----- 1. GROUP COMMANDER AND CHAIRMAN U.R.C.,N.C.C.GROUP QUARTERS,MUTTAMBALAM P.O. KANJIKUZHAY,KOTTAYAM-4.

2. DY DTE GENERAL CANTEEN SERVICES,QUARTERMASTER GENERAL'S BRANCH,ARMY HEADQUARTERS DHQ P.O. NEW DELHI 11000 .

3. ADDITIONAL DIRECTOR (K AND L) COTTON HILL BUNGLOW,TRIVANDRUM -10.

4. DIRECTORATE GENERAL NCC (PAND F) WEST BLOCK NO.IV,R.K.PURAM,NEW DELHI 11006 .

5. UNION OF INDIA REPRESENTED BY ITS SECRETARY TO DEFENCE,SENA BHAVAN NEW DELHI. BY ADV. SRI.SUNIL NAIR PALAKKAT BY ADV. SRI.K.N.ABHILASH BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 28886 of 2012 (I) APPENDIX PETITIONER(S) EXHIBITS EXHIBIT-P1: THE TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE FIRST RESPONDENT DATED 19 7.2010. EXHIBIT-P2: TRUE COPY OF THE B.COM DEGREE CERTIFICATE ISSUED BY THE MAHATMA GANDHI UNIVERSITY DATED 3 8.1990. EXHIBIT-P3: THE TRUE COPY OF THE POST GRADUATE DIPLOMA TAXATION CERTIFICATE DATED 1 6.2004 ISSUED BY THE CENTRE FOR TAXATION STUDY. EXHIBIT-P4; THE TRUE COPY OF THE N.C.C.(C) CERTIFICATE ISSUED BY THE N.C.C.DIRECTORATE. EXHIBIT-P5: THE TRUE COPY OF THE TREKKING EXPEDITION. EXHIBIT-P6: TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 6 9.2011. EXHIBIT-P7: THE TRUE COPY OF THE RELEVANT DIRECTIONS OF THE 2ND RESPONDENT. EXHIBIT-P8: THE TRUE COPY OF THE WARNING ISSUED BY THE FIRST RESPONDENT DATED 9 10.2012 TO THE PETITIONER. EXHIBIT-P9: THE TRUE COPY OF THE REPLY TO EXHIBIT P8 DATED 12 10.2012. EXHIBIT-P10: TRUE COPY OF THE WARNING DATED 5 11.2012 TO THE PETITIONER. EXHIBIT-P11: THE TRUE COPY OF THE PETITIONER'S REPLY TO FIRST RESPONDENT. EXHIBIT-P12: THE TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER'S MOTHER TO THE 4TH RESPONDENT DATED 25 10.2012. EXHIBIT-P13: TRUE COPY OF THE LETTER ISSUED BY THE THIRD RESPONDENT DATED 31 7.2012. EXHIBIT-P14: THE TRUE COPY OF THE ORDER OF SUSPENSION ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER. EXHIBIT-P15: TRUE COPY OF THE NOTICE DATED 04 12.2012 ISSUED BY THE 1ST RESPONDENT. EXHIBIT-P16: TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER'S COUNSEL TO THE FIRST RESPONDENT. EXHIBIT-P17: TRUE COPY OF THE NOTICE ISSUED BY THE COURT OF ENQUIRY UNDER THE FIRST ESPONDENT DATED 07 12.2012.

EXHIBIT-P18: TRUE COPY OF THE COVER SENDING EXHIBIT P16.  
RESPONDENTS' EXHIBITS : EXHIBIT-R1(A) : TRUE COPY OF THE WARNING  
LETTER DATED 22 11.2012 ISSUED BY THE 1ST RESPONDENT. EXHIBIT-  
R1(B) : TRUE COPY OF THE LETTER DATED 04 12.2012 ISSUED BY THE 1ST  
RESPONDENT. EXHIBIT-R1(C) : TRUE COPY OF THE RULES REGARDING  
THE TERMS AND CONDITIONS OF SERVICES OF CIVILIAN EMPLOYEES OF  
UNIT RUN CANTEEN PAID OUT OF NON-PUBLIC FUND, 2001 FORMULATED  
BY THE CANTEEN DEPARTMENT OF DEFENCE SERVICE DTD 28/04/2003  
ALONG WITH REFERENCE LETTER DTD 20/05/2003. //TRUE COPY// P.A TO  
JUDGE. Stu P.N.RAVINDRAN, J.

----- W.P.(C).No.28886 of 2012  
----- Dated this the 28th day of January, 2013

JUDGMENT The petitioner, who was working as Assistant Accountant in the unit run canteen at Kottayam under the control of the first respondent, has filed this writ petition challenging Ext.P14 order dated 30.11.2012 passed by the first respondent placing him under suspension pending enquiry. Though a large number of contentions are raised, having regard to the fact that an appeal lies from Ext.P14 order to the Deputy Director General, NCC Directorate, Trivandrum, I am of the opinion that the petitioner should file an appeal canvassing the correctness of the order of suspension before the appellate authority. Though the learned counsel appearing for respondents 1 to 4 submitted that the period of limitation prescribed for filing an appeal from an order of suspension is 45 days from the date of service of the order of suspension, having regard to the fact that the instant writ petition was filed in this Court within three days from the date on which the order of suspension was passed, I deem it appropriate to W.P(C).No.28886 of 2012 -:2:- direct that in the event of the petitioner filing an appeal within one week from today, the Deputy Director General shall consider it as one filed within time and dispose it of on the merits after affording the petitioner an opportunity of being heard. I accordingly dispose of the writ petition with a direction that in the event of the petitioner filing an appeal against the order of suspension before the Deputy Director General, NCC Directorate, Trivandrum within one week from today, the Deputy Director General shall consider the same and pass appropriate orders thereon after affording the petitioner an opportunity of

being heard. The first respondent shall stay his hands till such time as the appeal is disposed of. The contentions of both sides on the merits are kept open.  
P.N.RAVINDRAN, Judge. ahg. P.N.RAVINDRAN, J.

----- W.P.(C).No.28886 of 2012 ----- JUDGMENT  
28 h January, 2013

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