

Tahsildar,devikulam Vs. K.K.Krishnankutty

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Court : Kerala

Decided On : Feb-05-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Tahsildar,devikulam

Respondent : K.K.Krishnankutty

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN TUESDAY, THE 5TH DAY OF FEBRUARY 2013 16TH MAGHA 193 RP.No. 60 of 2007 (H) ----- {IN OP.26954/2001 OF THIS COURT} REVIEW PETITIONER(S)/RESPONDENTS: ----- 1. TAHSILDAR, DEVIKULAM.

2. THE DISTRICT COLLECTOR, IDUKKI DISTRICT.

3. SECRETARY, BOARD OF REVENUE.

4. ACCOUNTANT GENERAL, STATE OF KERALA, THIRUVANANTHAPURAM.

5. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT SECRETARIAT, THIRUVANANTHAPURAM. BY GOVERNMENT PLEADER SRI.M.A.FAYAZ
RESPONDENT(S)/PETITIONER: ----- K.K.KRISHNANKUTTY
DEPUTY TAHSILDAR (HOUSING) RTD., TALUK OFFICE DEVIKULAM,

RESIDING AT KANDATHINKARA HOUSE, KANNARA PATTIKKAD P.O.,
THRISSUR. BY ADV. SRI.PEARLY JOSE THIS REVIEW PETITION HAVING
COME UP FOR ADMISSION ON 05-02-2013, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: RP.No. 60 of 2007 (H) :: :: APPENDIX
PETITIONERS' EXHIBITS: ANNEXURE I: TRUE COPY OF THE INSTRUCTION
FROM THE DEPUTY SUPERINTENDENT OF POLICE, VACB, IDUKKI UNIT
DATED 16 12.2006 TO THE DISTRICT COLLECTOR. RESPONDENTS'
EXHIBITS: NIL //true copy// P.S. To Judge sk/- P.N.RAVINDRAN, J.

----- R.P.No.60 of 2007 in O.P.No.26954 of 2001
----- Dated this the 5th day of February, 2013

ORDER

This is an application filed by the respondents in O.P.No.26954 of 2001 seeking a review of the judgment delivered by this Court on 27.9.2006.

2. I heard Sri.M.A.Fayaz, learned Government Pleader appearing for the review petitioners and perused the records. Though the respondent has entered appearance through counsel, when the review petition was taken up for hearing today, the learned counsel appearing for the respondent/writ petitioner was not present. On 29.1.2013 when the review petition last stood posted for hearing, the same was the situation. However, in order to enable the respondent's counsel to appear, the review petition was adjourned to this day. Today also, as stated earlier, the learned counsel appearing for the respondent was not present.

3. The respondent, a person in the service of the Revenue Department, retired from service on 30.6.1998 while he was serving as Deputy Tahsildar. He filed O.P.No.26954 of 2001 on 11.9.2001 challenging Ext.P1 memo of charges dated 16.4.1996 and seeking a direction to the respondents (review petitioners) to R.P.No.60 of 2007 in O.P.No.26954 of 2001 :-2:- disburse pension and other terminal benefits to him forthwith. He contended that though pursuant to the initiation of disciplinary proceedings he was placed under suspension by Ext.P5 order dated 7.12.1996, an enquiry into the charges levelled against him has not been held. It was contended that in view of the fact that more than three years have passed after he retired from service, pension and other terminal benefits

cannot be withheld.

4. O.P.No.26954 of 2001 came up for hearing before a learned single Judge of this Court on 27.9.2006. On that day this Court disposed of O.P.No.26954 of 2001 by directing the second respondent, District Collector, Idukki, to finalise the disciplinary proceedings, if it has not been finalised, within three months. This Court also directed that if it is not finalised, it shall be deemed to have been dropped and the respondent/petitioner will be paid the eligible DCRG with interest at the rate of 8% from 1.7.2001. The judgment of this Court dated 27.9.2006 is extracted below in full:- "Petitioner approached this Court aggrieved by the delay in settling the pension and pensionary benefits. Apparently, due to the pendency of Ext.P1 memo of charges, in case the proceedings have not been finalised there will be a direction to the 2nd respondent to complete the finalisation proceedings, within a period of three months from today. If not, the same shall be deemed to have been dropped and R.P.No.60 of 2007 in O.P.No.26954 of 2001 -:3:- the petitioner will be paid his eligible DCRG with interest at the rate of 8% from 1.7.01, in any case. The original petition is disposed of as above." 5. This review petition is filed contending that terminal benefits were not disbursed to the respondent as a vigilance case, C.C. No.5 of 2006, was pending against him before the Court of Enquiry Commission and Special Judge, Thrissur, that the final report was filed in the said case on 28.2.2006 and that in view of the pendency of a judicial proceeding, the writ petitioner cannot seek payment of gratuity and other terminal benefits.

6. When the review petition came up for hearing today, Sri.M.A.Fayaz, learned Government Pleader appearing for the review petitioners, submits that in view of the pendency of the judicial proceedings the respondent was paid provisional pension and that the amount standing to his credit in the provident fund account was also paid to him. The learned Government Pleader also submitted that C.C.No.5 of 2006 on the file of the Court of the Enquiry Commission and Special Judge, Thrissur was later transferred to the Court of the Enquiry Commission and Special Judge, Kottayam, where it was taken on file and numbered as C.C.No.165 of 2008 and that, by judgment delivered on 16.3.2011 the writ petitioner was convicted under sections 13(2), 13(1)(C) of the Prevention of Corruption Act, 1988

and sentenced R.P.No.60 of 2007 in O.P.No.26954 of 2001 -:4:- to undergo rigorous imprisonment for one year and to pay a fine of Rs.60,000/- and in default to undergo rigorous imprisonment for three months. The learned Government Pleader submitted that consequently the Government have decided to withdraw all terminal benefits permanently under rule 2 of Part III of Kerala Service Rules and issued a show cause notice dated 10.11.2011 to the petitioner. In such circumstances, as the respondent stands convicted by the Court of the Enquiry Commission and Special Judge, Kottayam and the Government have issued a show cause notice dated 10.11.2011 calling upon him to show cause why terminal benefits should not be withdrawn permanently, I am of the opinion that the review petition is liable to be allowed. The review petition is accordingly allowed and the judgment delivered by this Court on 27.9. 2006 in O.P.No.26954 of 2001 is recalled. Registry is directed to post the original petition for hearing as per roster after two weeks. P.N.RAVINDRAN, Judge. ahg. P.N.RAVINDRAN, J.

----- R.P.No.60 of 2007 in O.P.No.26954 of 2001

ORDER

5th February, 2013

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