

Jayapalan Vs. K.K.Rajendran

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Court : Kerala

Decided On : Nov-29-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Jayapalan

Respondent : K.K.Rajendran

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR FRIDAY, THE 29TH DAY OF NOVEMBER 2013 8TH AGRAHAYANA, 1935 WP(C).No. 13241 of 2012 (E) ----- PETITIONER(S): ----- S. SASI, AGED 58 YEARS S/O. SATHYANESAN, TAILOR SREE CHITRA TIRUNAL INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY THIRUVANANTHAPURAM. BY ADVS.SRI.M.R.HARIRAJ SRI.R.SUSEELAN SRI.P.A.KUMARAN SMT.VINEETHA B. SRI.NIRMAL V. NAIR SRI.ANISH JAIN SMT.M.A.JINSA MOL SRI.SURAJ S. RESPONDENT(S): ----- 1. UNION OF INDIA REPRESENTED BY SECRETARY TO GOVERNMENT OF INDIA MINISTRY OF HEALTH, NEW DELHI - 110 001.

2. SREE CHITRA TIRUNAL INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY, REPRESENTED BY ITS CHAIRMAN SREE CHITRA TIRUNAL INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY, THIRUVANANTHAPURAM- 11.

3. DIRECTOR, SREE CHITRA TIRUNAL INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY, THIRUVANANTHAPURAM -11.

4. MEDICAL SUPERINTENDENT, SREE CHITRA TIRUNAL INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY, THIRUVANANTHAPURAM -11. R2-R4 BY ADV. SRI.T.R.RAVI , STANDING COUNSEL R1 BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.(C).13241/2012 APPENDIX PETITIONER'(S) EXHIBITS: EXHIBIT-P1-TRUE COPY OF THE MEMO NO. P&A VI/PF -270/SCTIMST/2012 DATED 21/04/2012 ISSUED BY THE 3D RESPONDENT. EXHIBIT-P2-TRUE COPY OF THE

ORDER

NO. P&A VI/PF 270/SCTIMST/97 DATED 01/03/1997. EXHIBIT-P3-TRUE COPY OF THE

ORDER

NO. DIR/PER&GI ADMN/SCTIMST/ PERFORMANCE/2011 DATED 11/02/2011. EXHIBIT-P4-TRUE COPY OF THE

ORDER

NO. DIR/PER&GI ADMN/SCTIMST/ PERFORMANCE/2011 DATED 03/03/2011 ISSUED BY THE 3D RESPONDENT. EXHIBIT-P5-TRUE COPY OF THE MEMO NO. P&A VI/PF 270/SCTIMST/2011 DATED 23/09/2011 ISSUED BY THE MEDICAL SUPERINTENDENT. EXHIBIT-P6-TRUE COPY OF THE

ORDER

NO. P&A VI/PF 270/SCTIMST/2011 DATED 27/01/2012 ISSUED BY THE 4H RESPONDENT. EXHIBIT-P7-TRUE COPY OF THE REPRESENTATION DATED 22/02/2012 SUBMITTED BY THE PETITIONER. EXHIBIT-P8-TRUE COPY OF THE MEMORANDUM NO. P&A VI/PF 270/SCTIMST/2011 DATED 15/03/2012 . EXHIBIT-P9-TRUE COPY OF THE APPEAL DATED 04/05/2012 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT. RESPONDENTS' EXHIBITS: EXT.R2(A):TRUE COPY OF CHARGE MEMO DATED 38.2012. EXT.R2(B):TRUE

COPY OF REPORT DATED 26.3.2013. EXT.R2(C):TRUE COPY OF THE
ORDER

DATED 21.6.2013. //TRUE COPY// P.A.TO JUDGE C.T. RAVIKUMAR, J.

===== W.P.(C). No.13241
OF 2012===== Dated this the 29th day of November,
2013

JUDGMENT

Petitioner is a tailor working under the Sree Chitra Tirunal Institute of Sciences and Technology. This writ petition has been filed mainly seeking quashment of Ext.P1 whereby the period of three months from 23.9.2011 to 23.12.2011 was treated as dies non. On 11.6.2012, while admitting this matter, this Court passed an interim order as hereunder:- "There would be a stay of further proceedings pursuant to Ext.P1. However, this will not stand in the way of the respondents from initiating disciplinary proceedings against the petitioner in the action of the petitioner for not turning out any work during the period in question."

2. It is submitted by learned counsel on both sides that in tune with the directions in the said order, disciplinary proceedings W.P.(C).13241/12 2 were initiated against the petitioner and that culminated in Ext.R2(c). As per Ext.R2(c) the following orders were issued:-

1) The suspension will stand revoked and Mr.Sasi S reinstated to the post he was holding w.e.f. the date of his reporting for duty in the P & A Divn.

2) His period of suspension shall be adjusted against his eligible leave (EL/HPL/EOL on personal grounds) on receipt of leave application.

3) The period of attendance in the office without doing his job from 24.12.2011 shall also be adjusted against eligible leave (EL/HPL/EOL on personal grounds) on receipt of leave application.

4) Decision as to how the period from 23.9.2011 to 23.12.2011 is to be treated is deferred till the final decision of the Hon. High Court of Kerala in W.P.

(C).No.13241/2012 (E) dated 11.6.2012.

5) His performance shall be closely monitored by the same committee for three month period after reinstating to service. In case he does not perform well during the period and/or thereafter disciplinary action will be re-imposed.

3. It is evident from Ext.R2(c) that taking into account the pendency of this writ petition, the question as to how the period between 23.9.2011 and 23.12.2011 to be treated was not decided. Virtually, it was deferred till the final decision in the writ petition. W.P.(C).13241/12 3 When this matter is taken up for consideration today, the learned counsel for the petitioner submitted that since the decision regarding regularisation of the period between 23.9.2011 and 23.12.2011 was deferred solely taking into account the pendency of this writ petition, the writ petition may be disposed of with a direction to the respondents to consider whether the said period could be regularised by granting eligible leave. The learned standing counsel appearing for respondents 2 to 4 submitted that in case the petitioner submits a petition carrying such a request, the admissibility or otherwise of regularisation of the said period by granting eligible leave would be considered. In view of the rival submissions, this writ petition is disposed of leaving the petitioner at liberty to move the third respondent by filing appropriate petition requesting for regularisation of the period between 23.9.2011 and 23.12.2011 as eligible leave, within two weeks from the date of receipt of a copy of this judgment. In case the petitioner submits such a representation within the stipulated period, the same shall be considered by the third respondent W.P.(C).13241/12 4 expeditiously, at any rate, within a period of one month from the date of receipt of such a representation. Sd/- C.T. RAVIKUMAR (JUDGE) spc/ W.P.(C).13241/12 5 C.T. RAVIKUMAR, J.

JUDGMENT

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