

Krishnakumar a K Vs. Kerala Clays and Ceramics Product Limited

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Court : Kerala

Decided On : Jan-30-2014

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Krishnakumar a K

Respondent : Kerala Clays and Ceramics Product Limited

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM THURSDAY, THE 30TH DAY OF JANUARY 2014 10TH MAGHA, 1935 WP(C).No. 28700 of 2013 (k) ----- PETITIONER(S): ----- KRISHNAKUMAR A.K., S/O.KUTTAPPU A.C., ELECTRICAL ENGINEER, KERALA CLAYS & CERAMIC PRODUCTS LTD. PAYANGADI UNIT, KANNUR NOW RESIDING AT GOPAL NIVAS, VENGARA P.O., PAYANGADI, KANNUR - 670 305. BY ADVS.SRI.P.VIJAYAKUMAR SRI.C.R.REGHUNATHAN SRI.M.V.ASHIM SRI.B.HARRYLAL RESPONDENT(S): ----- KERALA CLAYS AND CERAMICS PRODUCT LIMITED, REPRESENTED BY MANAGING DIRECTOR, CLAY HOUSE PAPPINISSERI, KANNUR - 670 561. R1 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR R1 BY ADV. SRI.P.GOPINATH R1 BY ADV. SRI.P.BENNY THOMAS R1 BY ADV. SRI.K.JOHN MATHAI THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rvs/ WP(C).No. 28700 of 2013 (k) APPENDIX PETITIONER(S)' EXHIBITS : -----

EXT.P1 - TRUE COPY OF MEMO DATED249-2012 ISSUED BY RESPONDENT.
EXT.P2 - TRUE COPY OF REPLY DATED259-2012 SUBMITTED BY
PETITIONER. EXT.P3 - TRUE COPY OF OFFICE

ORDER

DATED299-2012 ISSUED BY THE RESPONDENT. EXT.P4 - TRUE COPY OF
THE CHARGE SHEET DATED1810-2012 ISSUED BY THE RESPONDENT.
EXT.P5 - TRUE COPY OF REPLY DATED3011-2012 SUBMITTED BY
PETITIONER. EXT.P6 - TRUE COPY OF THE LETTER DATED111-2013 SENT
BY THE ENQUIRY OFFICER. EXT.P7 - TRUE COPY OF THE LETTER
DATED151-2013 SENT BY THE PETITIONER. EXT.P8 - TRUE COPY OF THE
PROOF AFFIDAVIT OF MW1. EXT.P9(A) - TRUE COPY OF THE PROOF
AFFIDAVIT OF MW2. EXT.P9(B) - TRUE COPY OF THE PROOF AFFIDAVIT OF
MW3. EXT.P9(C) - TRUE COPY OF THE PROOF AFFIDAVIT OF MW4.
EXT.P9(D) - TRUE COPY OF THE PROOF AFFIDAVIT OF MW5. EXT.P10 -
TRUE COPY OF APPLICATION DATED163-2013 SUBMITTED BY THE
PETITIONER. EXT.P11 - TRUE COPY OF APPLICATION DATED24-2013
SUBMITTED BY THE PETITIONER. EXT.P12 - TRUE COPY OF ENQUIRY
REPORT DATED55-2013. EXT.P13 - TRUE COPY OF LETTER DATED177-2013
ISSUED BY THE RESPONDENT. EXT.P14 - TRUE COPY OF REPLY
DATED307-2013 SUBMITTED BY PETITIONER. EXT.P15 - TRUE COPY OF
RECEIPT DATED199-2012 OF SUTHARAY KERALAM. WP(C).No. 28700 of
2013 (k) EXT.P16 - TRUE COPY OF LETTER DATED229-2012 SUBMITTED BY
THE WORKS MANAGER MW1. EXT.P17 - TRUE COPY OF MEMO DATED229-
2012 ISSUED BY RESPONDENT. EXT.P18 - TRUE COPY OF
REPRESENTATION DATED249-2012 SUBMITTED BY WORKS MANAGER
(MW1). EXT.P19 - TRUE COPY OF LETTER DATED249-2012 ISSUED BY THE
RESPONDENT. EXT.P20 - TRUE COPY OF STANDING

ORDER

OF THE COMPANY. EXT.P21 - TRUE COPY OF THE COMPLAINT DATED279-
2012 FILED BY THE WORKS MANAGER (MW1) BEFORE SHO KANNAPURAM
POLICE STATION. EXT.P22 - TRUE COPY OF INVESTIGATION REPORT
DATED284-2013. EXT.P23(A)- TRUE COPY OF CALL DETAILS OF

PETITIONER'S MOBILE PHONE. EXT.P23(B)- TRUE COPY OF ATTENDANCE REGISTER OF NILESHWAR UNIT. EXT.P24 - TRUE COPY OF LETTER DATED1710-2013 ISSUED BY THE RESPONDENT. EXT.P25 - TRUE COPY OF REPRESENTATION DATED2510-2013 SUBMITTED BY THE PETITIONER. EXT.P26 - TRUE COPY OF LETTER DATED3010-2013 ISSUED BY THE RESPONDENT. EXT.P27 - TRUE COPY OF REPLY DATED411-2013 SUBMITTED BY THE PETITIONER. EXT.P28 - TRUE COPY OF LEAVE APPLICATION DATED1411-2013. RESPONDENT(S)' EXHIBITS: ----- NIL. /true copy/ P.A.TO JUDGE C.K. ABDUL REHIM, J.

----- W.P.C.No.28700
OF2013----- Dated this the 30th day of January, 2014

JUDGMENT

Petitioner is working as Electrical Engineer under the respondent. Pursuant to disciplinary action initiated against him, Ext.P4 proceedings was issued by the Managing Director of the respondent, awarding 'stern warning' on affording opportunity to correct the petitioner, and also reinstated him in service with immediate effect. Ext.P24 proceedings was issued on the basis of an enquiry conducted, the report of which is produced as Ext.P12. The petitioner is challenging Exts.P12 and P24 in this writ petition.

2. The respondent is a company fully owned by the State Government. Provisions of Kerala Civil Services (Classification Control and Appeal) Rules is made applicable to the employees of the respondent. Standing Counsel for the respondent submitted that there is a statutory appeal provided against Ext.P24 before the Board of Directors of the respondent Company, under Section 32(3) of the 'Memorandum of Settlement' arrived with the W.P.C.No.28700 OF20132 employees of the respondent Company, which is applicable for the period from 01.01.2009 to 31.12.2012.

3. Since an effective remedy of appeal is provided against Ext.P24, this Court is of the opinion that this writ petition need not be entertained. It is left open to the petitioner to pursue remedy before the appropriate authority.

4. Hence, this writ petition is dismissed, without prejudice to rights of the petitioner to approach the statutory Appellate Authority against Ext.P24. Considering the fact that the petitioner was prosecuting challenge against the impugned order before this Court, it is directed that, if the petitioner files any statutory appeal before the appropriate authority within a period of two weeks from the date of receipt of a copy of this judgment, the same shall be treated as an appeal filed within the time limit, if any prescribed. C.K. ABDUL REHIM, JUDGE sp

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