

K.V. Pushpakaran Vs. State of Kerala

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Court : Kerala

Decided On : Jan-27-2014

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

Appellant : K.V. Pushpakaran

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN MONDAY, THE 27TH DAY OF JANUARY 2014 7TH MAGHA, 1935 WP(C).No. 2600 of 2014 (Y)

----- PETITIONER(S): ----- K.V. PUSHPAKARAN, AGED 56 YEARS SWATHI, EDAPPAL, MALAPPURAM DISTRICT PIN - 679 576. BY ADV. SRI. IEANS. C. CHAMAKKALA RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY SECRETARY (HEALTH) GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM - 695 001.

2. SECRETARY (HEALTH) GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM - 695 001.

3. THE ADDITIONAL DIRECTOR (VIGILANCE) OFFICE OF HEALTH DIRECTOR THIRUVANANTHAPURAM - 695 001.

4. ADDITIONAL DIRECTOR OF HEALTH SERVICES (PH) DIRECTORATE OF HEALTH SERVICES THIRUVANANTHAPURAM - 695 001.

5. THE DISTRICT MEDICAL OFFICER OF HEALTH MALAPPURAM - 676 505.

6. THE DISTRICT MEDICAL OFFICER IN CHARGE, COMMUNITY HEALTH CENTER, EDAPPAL - 679 576.

7. SUDHIR RANJAN DAS,, AGED ABOUT 57 YEARS "SRUTHY NIVAS", AYILAKKAD P.O., MALAPPURAM - 676 505. R1-R6 BY ADV.SRI.K.C.VINCENT, SR.GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.01.2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 2600 of 2014 (Y) APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1 : THE TRUE COPY OF THE COMPLAINT DATED 05.04.2011 FILED BY THE PETITIONER AGAINST THE 7TH RESPONDENT BEFORE THE 3^D RESPONDENT EXHIBIT P2 : A TRUE COPY OF THE CIRCULAR NO.EC4/86323/10/AVD DATED 16.02.2011 EXHIBIT P3 : A TRUE COPY OF THE MEMO CHARGES ISSUED TO THE 7TH RESPONDENT BY THE 4TH RESPONDENT DATED 11.10.2011 EXHIBIT P4 : A TRUE COPY OF THE SHOW CAUSE NOTICE DATED 08.03.2012 ISSUED FROM DIRECTOR OF HEALTH SERVICE, THIRUVANANTHAPURAM TO THE 7TH RESPONDENT EXHIBIT P5 : A TRUE COPY OF THE

ORDER

NO.EC5-50586/11/DHS DATED 17.09.2012 ISSUED BY THE 3^D RESPONDENT EXHIBIT P6 : A TRUE COPY OF THE APPEAL DATED 28.05.2013 FILED BEFORE THE 2^D RESPONDENT RESPONDENT(S)' EXHIBITS NIL R.AV //TRUE COPY// PATO JUDGE P.N.RAVINDRAN, J.

----- W.P.(C)No.2600 of 2014 -----
Dated this the 27th day of January, 2014

JUDGMENT

The petitioner, a Doctor by profession, has filed this writ petition challenging Ext.P5 order passed by the Additional Director of Health Services dropping the

disciplinary action initiated against the seventh respondent. He has also prayed for a writ in the nature of mandamus commanding respondents 2 to 6 to take appropriate legal action against the seventh respondent.

2. It is stated that though pursuant to a complaint filed by the petitioner, disciplinary action was initiated against the seventh respondent, by the impugned order, disciplinary action was dropped after a decision was taken not to proceed further against him. It is stated that aggrieved thereby the petitioner has filed Ext.P6 appeal before the Secretary to Government, Health Services Department, but the Government have not yet taken any decision in the matter.

3. The records disclose that the seventh respondent is no longer in service. He retired from service on 31.3.2012. The petitioner's complaint against the seventh respondent is dated 5.4.2011. Ext.P1 is a copy thereof. The substance of the allegation W.P.(C)No.2600 of 2014 2 therein is that the seventh respondent had after inspecting his clinic issued unauthorised notices to him without the permission of the concerned medical officer, using a self made seal of the Health Inspector and misusing the office seal. It is also contended that the seventh respondent initiated legal proceedings against him without the permission of the medical officer. Even if all the allegations levelled by the petitioner against the seventh respondent are true and correct, no disciplinary action can be taken against him at this distance of time in view of the fact that he has retired from service. The acts complained of cannot be said to have resulted in any pecuniary loss to the Government. The decision taken by the disciplinary authority cannot therefore be successfully challenged by the petitioner. I therefore find no reason to entertain the writ petition. The writ petition fails and is accordingly dismissed. Sd/-
P.N.RAVINDRAN JUDGE vpv