

The Manager Vs. Jilson Thomas C.

The Manager Vs. Jilson Thomas C.

SooperKanoon Citation : sooperkanoon.com/1142501

Court : Kerala

Decided On : May-29-2014

Judge : Honourable Mr.Justice Antony Dominic

Appellant : The Manager

Respondent : Jilson Thomas C.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS THURSDAY, THE 29^H DAY OF MAY 2014/8TH JYAISHTA, 1936 WA.No. 645 of 2014 () IN WP(C).2980/2013 ----- AGAINST THE

JUDGMENT

IN WP(C) 2980/2013 of HIGH COURT OF KERALA DATED 27-03-2014 APPELLANT/4TH RESPONDENT: ----- THE MANAGER MUHAMMED ABDULRAHIMAN SAHIB MEMORIAL VOCATIONAL HIGHER SECONDARY SCHOOL VENMANAD, PAVARATTY PO, THRISSUR 680507. BY ADVS.SRI.V.A.MUHAMMED SRI.M.SAJJAD RESPONDENTS/PETITIONER AND RESPONDENTS 1 to 3: ----- 1. JILSON THOMAS C., AGED 40 YEARS CHIRAMEL HOUSE, ENAMAKKAL PO, THRISSUR 680510.

2. THE STATE OF KERALA REPRESENTED BY PRINCIPAL SECRETARY GENERAL EDUCATION DEPARTMENT GOVERNMENT SECRETARIAT , THIRUVANANTHAPURAM695001.

3. THE DEPUTY DIRECTOR OF EDUCATION THRISSUR680502.

4. THE DISTRICT EDUCATIONAL OFFICER CHAVAKKAD680506. R1 BY ADV. SRI.ELVIN PETER P.J.

R1 BY ADV. SRI.T.G.SUNIL (PRANAVAM) R1 BY ADV. SRI.K.R.GANESH R BY SR,GOVERNMENT PLEADER, SRI.M.K.ABOOBACKER THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON2905-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

----- W.A. No.645 OF2014----- Dated this the 29th day of May, 2014

JUDGMENT

~~~~~ Appellant is the Manager of an aided school. The 1st respondent, who was working as HSA (Maths) in the school in question. While so, by Ext.P5 order 1st respondent was placed under suspension. That was holding on the issue before the DEO, who by Ext.P8 order, directed reinstatement of the 1st respondent. However, in a Revision Petition filed by the appellant, the Government issued Ext.P11 order, confirming Ext.P5 order of suspension. Challenging Ext.P11, the Writ Petition was filed by the 1st respondent. During the pendency of the Writ Petition, on an application filed by the appellant, Ext.P17 was issued by the Government in which it was also ordered that his suspension is liable to be reviewed and is to be reinstated in service before completion of disciplinary action. Challenging Ext.P17, the appellant filed W.P.(C) No.3792/2014. Both the Writ Petitions together came up W.A.No.645/2014 2 before the learned Single Judge. But, however, having regard to the nature of controversies involved, learned single Judge de-linked the cases and proceeded to decide W.P.(C) No.2980/2013 filed by the 1st respondent impugning Ext.P11. In the judgment under appeal, the

learned Single Judge set aside Ext.P11 and ordered that the 1st respondent shall be re-instated in service. It is this judgment, which is challenged before us by the Manager.

2. We heard the learned counsel for the appellant, learned counsel appearing for the 1st respondent and the learned Government pleader appearing for respondents 2 to 4. Though the learned counsel for the appellant contended that the judgment of the learned Single Judge is illegal and erroneous, having considered the rival submissions we are unable to agree with this. As rightly held by the learned Single Judge though the right to place an employee under suspension that of the disciplinary authority, the question whether such suspension should be continued is a matter involved in public interest and this has to be decided W.A.No.645/2014 3 depending upon various factors which are of; whether there is possibility of the delinquent to influence the witnesses, tampering document, evidence etc. In so far as the case in question is concerned, there is no such case. In so far as Ext.P11 order impugned by the 1st respondent is concerned, reading of the order itself shows that none of the relevant considerations were taken into account by the Government while confirming Ext.P5. That apart, for the first time the Government also placed reliance on audit report which also could not have been done by the Government. In such a situation, the conclusion of the learned Single Judge that Ext.P11 order suffers non-application of mind and that it takes into account extraneous matters, does not suffer from any illegality. We do not, therefore, find any justification to entertain this appeal. Appeal is dismissed. Sd/- ANTONY DOMINIC, JUDGE sd/- ALEXANDER THOMAS, JUDGE. ps/29/5/2014

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**