

The Manager Vs. V.T.Anitha

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Court : Kerala

Decided On : May-30-2014

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

Appellant : The Manager

Respondent : V.T.Anitha

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM FRIDAY, THE 30TH DAY OF MAY 2014 9TH JYAISHTA, 1936 RP.No. 268 of 2014 () IN WP(C). NO.5668/2014 ----- AGAINST THE

JUDGMENT

IN WP(C) NO.5668/2014 of HIGH COURT OF KERALA DATED 17-03-2014 REVIEW PETITIONER(S)/THIRD RESPONDENT: -----

THE MANAGER, S.V.HIGHER SECONDARY SCHOOL, CLAPPANA KARUNAGAPPALLY - 690 525. BY ADV. SRI.S.SHAJI RESPONDENT(S)/PETITIONER & RESPONDENT 1 & 2:

----- 1. V.T.ANITHA,, AGED 45 YEARS W/O REJILAL, HIGH SCHOOL ASSISTANT (HINDI) S.V.HIGHER SECONDARY SCHOOL, CLAPPANA KARUNAGAPPALLY-690525.(RESIDING AT VALIYA VEETIL-KIZHAKKETHIL CLAPPANA SOUTH, KARUNAGAPPALLY).

2. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT GENERAL EDUCATION DEPARTMENT, SECRETARIAT THIRUVANANTHAPURAM-695001.

3. THE DISTRICT EDUCATIONAL OFFICER, KOLLAM DISTRICT-691001. R2 & R3 BY GOVERNMENT PLEADER SRI.M.A.ABDUL SHUKOOR R1 BY SRI.V.A.MUHAMMED THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 30/05-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: RP.No. 268 of 2014 () IN WP(C). NO.5668/2014 APPENDIX PETITIONERS' EXHIBITS ANNEXURE A1 COPY OF THE CIRCULAR NO.15/90/FIN DATED 20.03.90 ISSUED BY THE GOVERNMENT. ANNEXURE A2 COPY OF THE CIRCULAR NO.15/02/FIN DATED 13.02.02 ISSUED BY THE GOVERNMENT. ANNEXURE A3 COPY OF THE CIRCULAR NO.22194/J3/13/G.EDN. DATED 26.02.2013 ANNEXURE A4 COPY OF THE REPRESENTATION SUBMITTED BY THE REVIEW PETITIONER BEFORE THE D.E.O. KOLLAM DATED 17.02.14. ANNEXURE A5 COPY OF THE REPRESENTATION SUBMITTED BEFORE THE MINISTER FOR EDUCATION DATED 19.02.2014. RESPONDENTS' EXHIBITS : NIL /TRUE COPY/ P. A. TO JUDGE Pn C.K. ABDUL REHIM, J.

----- R. P. No. 268 of 2014 in W.P.(C). No. 5668 of 2014
----- Dated this the 30th day of May, 2014

ORDER

The review is sought for on the ground that the petitioner could not contest the writ petition even after receipt of notice from this court. According to the review petitioner, he was busy with making necessary arrangements for conduct of SSLC examination and therefore he could not appear before this court in time.

2. On merits it is contended that the writ petitioner is employed abroad and that she is in the habit of taking leave without allowance and rejoining duty just before closing of the school. She used to cancel the unavailed portion of leave, only for getting vacation salary. This was objected by the Manager on the basis of Annexure A3 circular issued by the Government observing that no academic

purpose will be served by allowing a teacher to join school at the fag end of an academic year, but it will only enable the teacher to claim vacation salary thereby R. P. No. 268 of 2014 -2- causing financial loss to the public exchequer. It is contended that in Annexure A3 the Departmental Officers were issued with directions not to entertain requests for rejoining duty at the fag end of the academic year.

3. Heard; counsel appearing for the review petitioner, counsel appearing on behalf of the 1st respondent (writ petitioner) and the Government Pleader. The writ petition was allowed with a declaration that the petitioner is deemed to have joined duty from 20.01.2014 onwards. The respondents in the writ petition were directed to pay all the attendant benefits due to the petitioner as if she had joined service on that date. It is further made clear that the educational authority will be at liberty to recover such benefits if paid, from the 3rd respondent/Review Petitioner. Liberty was also reserved to the educational authority to proceed against the review petitioner with such steps as permissible under law for violating the directions issued.

4. The judgment was rendered on the basis of findings that, despite repeated directions issued by the R. P. No. 268 of 2014 -3- educational authorities and the Director of Public Instructions based on orders issued by the State Government, the review petitioner had not permitted rejoining duty of the writ petitioner. It is pertinent to note that those directions were not challenged by the review petitioner. The only contention raised by the learned counsel is that the application filed by the review petitioner is pending disposal before the Government, as per Annexure A5. Learned counsel appearing for the writ petitioner points out that the said application was submitted only before the Minister for Education, with a prayer to keep in abeyance the directions issued for permitting rejoining duty of the writ petitioner.

5. However, the review petitioner is not in a position to point out any error apparent on the face of the judgment which warrants a review. Apart from Annexure A1 to A3 circulars and Annexure A5 petition, there is no materials produced to show that the repeated directions issued by the educational authorities including the

Government was not binding on the petitioner or that the R. P. No. 268 of 2014 -4- petitioner was entitled to refrain the writ petitioner from rejoining duty, despite such directions.

6. Hence this court is of the opinion that, the petitioner could not substantiate that any material aspect was omitted notice of this court at the time when the judgment was rendered. Hence this court is not satisfied that there exists any legal and valid reasons to allow the review petition. Accordingly, the review petition is hereby dismissed. Sd/- C.K. ABDUL REHIM, JUDGE /true copy/ P. A. to Judge Pn

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