

T.C. Thomas Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1163520

Court : Kerala

Decided On : Aug-26-2014

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : T.C. Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR TUESDAY, THE 26TH DAY OF AUGUST 2014 4TH BHADRA, 1936 WP(C). No. 18627 of 2014 (C) ----- PETITIONER(S): ----- T.C. THOMAS, AGED 57 S/O. LATE CHACKO T.V, THENGUMTHOTTATHIL HOUSE ATHIRAMPUZHA, KOTTAYAM-686 562. BY ADVS. SRI. V. PHILIP MATHEW SRI. E. RADHAKRISHNAN RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT WATER RESOURCES (WATER SUPPLY-B), DEPARTMENT KERALA GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM-695 001.

2. KERALA WATER AUTHORITY JALA BHAVAN THIRUVANANTHAPURAM REPRESENTED BY ITS MANAGING DIRECTOR.

3. THE EXECUTIVE ENGINEER P.H. (PUBLIC HEALTH) DIVISION, ALAPPUZHA-688 001.

4. THE DIRECTOR VIGILANCE & ANTI CORRUPTION BUREAU
THIRUVANANTHAPURAM-695 033. BY GOVERNMENT
PLEADERS SRI.A.J.JOSE AEDA IODI, BY SRI.JOSEPH JOHN, SC, KERALA
WATER AUTHORITY THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 26/08-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: WP(C).No. 18627 of 2014 (C) ----- APPENDIX
PETITIONER(S)' EXHIBITS ----- EXT.P1. COPY OF

ORDER

NO.KWA/PHC/CHN/A1-3152/2010 DATED 17/12/2010 ISSUED BY THE
SUPERINTENDING ENGINEER, KERALA WATER AUTHORITY, PH CIRCLE,
KOCHI-11. EXT.P2 : COPY OF

ORDER

DATED 21/12/2010 IN CRLL.MP NO.1198/2010 IN VC NO.17/2010/VACB/
ERNAKULAM. EXT.P3 : COPY OF

JUDGMENT

DATED 38/2011 IN WPC NO.20347/2011 EXT.P4 : COPY OF THE

ORDER

DATED 31/2/2011 ISSUED BY THE 2D RESPONDENT EXT.P5: COPY OF THE
PROCEEDINGS NO.KWA/JB/E6(B1)/13792/2010 DATED 22/10/2011. EXT.P6 :
COPY OF THE LETTER NO.L5003/B3/11/WRD DATED 8/11/2011 FROM THE
GOVERNMENT EXT.P7 : COPY OF THE

JUDGMENT

DATED 18/7/2013 IN WPC NO.14937/2013 N. EXT.P8: COPY OF THE

ORDER

DATED 5/12/2013 ISSUED BY THE 3D RESPONDENT EXT.P9: COPY OF THE
RESPRESENTATION DATED 6/1/2014 SUBMITTED BEFORE THE
RESPONDENTS EXT.P10: COPY OF THE SHOW CAUSE NOTICE
NO.4790/D2/2012/VIG DATED 4/11/2013. EXT.P11 : COPY OF THE OBJECTION
DATED 20/2/2014 SUBMITTED BY THE PETITIONER TO EXT.P10. EXT.P12:

COPY OF LETTER NO.C2 (VC17/10/EKM) 33521/2010 DATED 12/01/2010 DATED ..
01.2013 FROM THE 4th RESPONDENT TO PRINCIPAL SECRETARY TO
GOVERNMENT RESPONDENT(S)' EXHIBITS: NIL -----
//TRUE COPY// P.A TO JUDGE A.K.JAYASANKARAN NAMBIAR, J.

..... W.P.(C)No.18627 of 2014
..... Dated this the 26th day of August, 2014

JUDGMENT

The petitioner, who entered the service of the 2nd respondent Water Authority as a Casual Labour/Meter Reader in the year 1982, was subsequently regularised in service. In 2010, he was transferred and posted at Ernakulam. While working at Ernakulam, a vigilance case was registered against the petitioner alleging commission of offences under Sections 7 and 13 (1) (d), read with Section 13 (2), of the Prevention of Corruption Act, 1988. The allegation against the petitioner was that he had accepted a bribe of Rs.200/- from a consumer in connection with a request for transfer of ownership of a water connection. The vigilance proceedings initiated against the petitioner eventually culminated in Ext.P12 communication from the Director, Vigilance and Anti- Corruption Bureau to the Principal Secretary to the Government, wherein it was indicated that, as per the opinion of the Deputy Director of Prosecution (Vigilance), there was not enough evidence available with the department to successfully prosecute the petitioner. By this time, the petitioner had retired from service and it was therefore decided to take action against the petitioner in terms of Rule 59(b) of Part III KSR with a proposal to reduce the pension of the petitioner. W.P.(C)No.18627 of 2014 2 2. It is the submission of the petitioner that thereafter Ext.P10 show cause notice was issued to him proposing to reduce an amount of Rs.100/- per month for three years in terms of Rule 59(b) of Part III KSR. The said show cause notice directed him to submit objections, if any, within a period of 15 days from the date of receipt of the notice. In response to Ext.P10 show cause notice, the petitioner appears to have preferred Ext.P11 objection and the same is currently pending consideration by the 2nd respondent authority. In the writ petition, the petitioner seeks to quash Exts.P10 and P12 and a further direction to the respondents to grant eligible retirement benefits, such as

DCRG, commuted value of Pension and terminal leave surrender, after taking into account the period of service rendered by the petitioner under the 2nd respondent.

3. I have heard Sri.Philip Mathews, the learned counsel appearing on behalf of the petitioner, Sri.Joseph John, the learned Standing counsel appearing on behalf of the 2nd respondent Water Authority and the learned Government Pleader appearing on behalf of the respondents 1 and 4.

4. On a consideration of the facts and circumstances of the W.P.(C)No.18627 of 2014 3 case as also the submissions made by counsel, I find that this is a case where the petitioner has already retired from the service of the 2nd respondent on attaining the age of superannuation. Although proceedings were initiated against him by the Vigilance Department, the material available on record shows that the Vigilance Department had since been advised against pursuing further steps to prosecute the petitioner. The 2nd respondent, therefore, resorted to departmental proceedings in terms of Rule 59 of Part III KSR. Ext.P10 is the show cause notice issued to the petitioner in that regard. The petitioner has responded to the show cause notice by submitting Ext.P11 objections. What remains now is for the disciplinary proceedings to reach its logical conclusion. To facilitate this, I feel that the writ petition can be disposed with the following directions:- 1. The 2nd respondent Water Authority shall complete the disciplinary proceedings initiated against the petitioner, through Ext.P10 show cause notice, within a period of 6 months from the date of receipt of a copy of this judgment.

2. Pending completion of the proceedings as above, the 2nd respondent authority shall disburse the pensionary benefits that are due and payable to the petitioner, after withholding the amounts that are proposed in Ext.P10 show cause notice. The disbursal W.P.(C)No.18627 of 2014 4 of the said pensionary benefits shall be effected within a period of two months from the date of receipt of a copy of this judgment.

3. The right of the petitioner to claim interest, on the delay, if any occasioned, in the payment of pensionary benefits, is left open for the petitioner to pursue at a later stage. A.K.JAYASANKARAN NAMBIAR JUDGE mns/