

Anitha Panayanthatta Vs. State of Kerala

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Court : Kerala

Decided On : Sep-01-2014

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Anitha Panayanthatta

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU MONDAY, THE 1ST DAY OF SEPTEMBER 2014 10TH BHADRA, 1936 OP(KAT).No. 288 of 2014 (Z)

ORDER

IN OA4342013 of KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM PETITIONER/APPLICANT: ANITHA PANAYANTHATTA, SELECTION GRADE TYPIST, OFFICE OF THE PRINCIPAL AGRICULTURAL OFFICER, DEPARTMENT OF AGRICULTURE, KALPETTA, WAYANAD DISTRICT, RESIDING AT EC QUARTERS, NEAR MARUTHI THEATRE, B STREET, MANANTHAWADY, WAYANAD DISTRICT. BY ADVS. SRI.S.SREEKUMAR (SR.) SRI.MANOJ RAMASWAMY
RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA REP. BY THE SECRETARY TO GOVERNMENT, AGRICULTURAL DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE DIRECTOR OF AGRICULTURE, DIRECTOR OF AGRICULTURE, THIRUVANANTHAPURAM - 695 001.

3. THE PRINCIPAL AGRICULTURAL OFFICER, OFFICE OF THE PRINCIPAL AGRICULTURAL OFFICER, KALPETTA, WAYANAD DISTRICT- 673 122.

4. THE SUPERINTENDENT. MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM- 695 001. BY SR. GOVERNMENT PLEADER SRI.MOHAMMED SHAH THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR ADMISSION ON 0109-2014 ALONG WITH OP KAT. 287/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: APPENDIX IN OP(KAT).No. 288 of 2014 (Z) PETITIONER'S EXHIBITS: EXHIBIT-P1-TRUE COPY OF THE O.A4342013 FILED BEFORE THE HONOURABLE ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM. EXHIBIT-P2-TRUE COPY OF THE REPLY STATEMENT FILED BY THE 1ST RESPONDENT. EXHIBIT-P3-TRUE COPY OF THE REPLY STATEMENT FILED BY THE 4TH RESPONDENT. EXHIBIT-P4-TRUE COPY OF THE REJOINED FILED BY THE PETITIONER. EXHIBIT-P5-TRUE COPY OF THE

ORDER

NO. V(2) 15834/2011 DATED 1906/2011 ISSUED BY THE REGISTRAR, CO-OPERATIVE DEPARTMENT. EXHIBIT-P6-TRUE COPY OF THE

ORDER

IN O.A4342013 DATED 2207/2014. RESPONDENT(S)' EXHIBITS: NIL /TRUE COPY/ P.S TO JUDGE Antony Dominic & Dama Seshadri Naidu, JJ.

----- O.P.(KAT)Nos.287 & 288 of
2014 ----- Dated this the 1st day of
September, 2014

JUDGMENT

Antony Dominic, J.

The petitioners in these original petitions are Selection Grade Typists in the Office of the Principal Agricultural Officer, Kalpetta, Wayanad District. They got appointed in the vacancies earmarked for physically handicapped persons on the strength of the certificates evidencing that their hearing was impaired to the extent certified by the medical board. Subsequently, they were issued show cause notices alleging that the certificates were fabricated and that it was on the basis of such false certificates that they obtained appointments rendering them liable for disciplinary action. Thereafter, they were called for a medical examination and in the meantime, Annexure-A1 memo of charges were also served on them. It was at that stage, they approached the Tribunal by filing OP(KAT) 287&288/14 2 O.A.Nos.431/2013 and 434/2013. The O.A.s were dismissed by orders dated 22.07.2014. It is challenging these orders, these original petitions are filed.

2. We heard the learned senior counsel for the petitioners, who contended that the appointments were on the basis of the medical certificates issued by the competent medical board, certifying the disability of the petitioners and such certificates can neither be called fabricated nor fake and that, on that basis the petitioners cannot be proceeded against.

3. As we have already noticed, disciplinary action initiated against the petitioners was challenged at a stage when memo of charges were issued. At this stage, neither the Tribunal nor this Court will be justified in entering into the merits of the rival cases or the acceptability or otherwise of the certificates of the medical board which were relied on to appoint the petitioners. At this stage, the matter is at large before the disciplinary authority and it is for the petitioners to file their explanations and adduce OP(KAT) 287&288/14 3 their evidence before the disciplinary authority itself. It is thereafter the disciplinary authority to come to a conclusion based on the evidence available before it.

4. The law is settled that at a stage when memo of charges is issued, disciplinary proceedings can be called in question before a court at the threshold of the proceedings only if the memo of charges is defective for absence of jurisdiction or if the memo of charges, on its face, does not reveal a prima facie misconduct.

These two vitiating factors, we are afraid, are not disclosed in these cases, justifying challenge against the proceedings at this stage. Therefore, we do not find any illegality in the orders passed by the Tribunal justifying entertainment of the original petitions. The original petitions are accordingly dismissed. Antony Dominic, Judge Dama Seshadri Naidu, Judge tkv

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