

Manager, vs State of Kerala

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Court : Kerala

Decided On : Feb-06-2024

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : WP(C)/12097/2021

Appellant : Manager,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 6TH DAY OF FEBRUARY 2024 / 17TH MAGHA, 1945
WP(C) NO. 12097 OF 2021 PETITIONER: MANAGER, NARAYANAN
NAIR MEMORIAL HIGHER SECONDARY SCHOOL, CHELAMBRA,
PULLIPARAMBU P.O, MALAPPURAM-673 634. BY ADVS.
M.R.ANISON V.BHARGAVI (PANANGAD) RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY SECRETARY TO
GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001. 2 THE DISTRICT
EDUCATIONAL OFFICER THIRURANGADI-676 306, 3 N. SAMBHU

KUMAR, PEON (UNDER SUSPENSION), NARAYANAN NAIR
MEMORIAL HIGHER SECONDARY SCHOOL, CHELAMBRA,
PULLIPARAMBU P.O. MALAPPURAM-673 634, RESIDING AT
NEELAMANA, VADAKKEMADAM, KAVATHIKKALAM KOTTUR,
KOTTAKKAL, MALAPPURAM DISTRICT-676 503. BY ADVS.
SRI.PREMCHAND R NAIR, SR.GOVERNMENT PLEADER
SRI.V.A.MUHAMMED SRI.M.SAJJAD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06.02.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: -2-

MOHAMMED NIAS C.P., J.

----- WP(C)No.12097 of 2021 ----- Dated this
the 6th day of February, 2024

JUDGMENT

This writ petition is filed by the Manager of an aided High school.

The third respondent was working as a Peon in the school. The manager initiated disciplinary proceedings against the third respondent on receipt of several complaints against him including the alleged theft of 21 original SSLC books from the school, scattering the question papers of VIII standards in the corridor of the school, missing of an ATM card, attendance registers, accounts books, salary and other materials from the staff room. The manager placed the third respondent under suspension for 15 days with effect from 22.12.2017 pending disciplinary action. The respondent, however, rejected the request for extending the period of suspension beyond 15 days. Accordingly, the third respondent was reinstated on 8.1.2018 as per Ext.P1. The petitioner, on knowing that a criminal case had been instituted against the third respondent and that he had been arrested, again placed the third respondent under suspension with effect from 29.01.2018 until the termination of the criminal proceedings. Though the

-3- third respondent challenged the same in revision, the same was also rejected. Ext.P6 was the memo of charges along with the statement of

allegations served on the third respondent. By Ext.P7, the second respondent completed the enquiry and prepared an enquiry report. The manager had challenged the same in revision before the first respondent, who by Ext.P11 rejected the same. In Ext.P8 revision filed against Ext.P7, the petitioner had taken the specific ground that the enquiry report is not in compliance with Rule 75(8) of Chapter XIV A KER. The petitioner contends that it was the duty of the enquiry authority to prepare a report and record findings on each of the charges together with the reasons thereon and the same has not been done, as is evident from Ext.P7. The challenge to Ext.P7 was also repelled by Ext.P11 which also did not consider the specific contention of the petitioner as regards the violation of Rule 75(8). The petitioner also relies on the judgment of this Court in

Radhamma v. Thulasi Bhai [2006 (3) KLT 909]. Accordingly, the petitioner prays for quashing Exts.P7 and P11.

2. The second and the third respondents have filed counter affidavits defending Ext.P11 order.

3. Heard Sri.M.R.Anison, the learned counsel for the petitioner, Sri.Sajjad, the learned counsel for the third respondent and Sri.Premchand -4- R Nair, the learned Government Pleader for the first respondent.

4. Having heard the learned counsel on all sides and perusing the

records, it is clear that Ext.P7 enquiry report does not specifically deal with the charges framed against the third respondent nor does it consider the evidence which consists of 30 documents and 11 witnesses on the side of the management. Though the enquiry report dealt with the statement of allegation and holds that three of the allegations have been proved, which also include the charge, perusal of Ext.P7 would show that the same is not in tune with Rule 75(8) of Chapter XIV A KER. Though specific grounds were raised in Ext.P8 revision challenging the enquiry report by the manager, the same was also not considered by the first

respondent while passing Ext.P11.

5. Learned counsel for the petitioner submits that under such

circumstances, the matter may be remitted to the Government for reconsideration of the revision. The learned counsel for the third respondent submits that on the basis of the findings arrived at by the second respondent, the manager can impose punishment.

6. On an anxious consideration of the contentions raised and also taking note of the fact that the third respondent has been under -5-

suspension since 29.1.2018, to put a quietus to the dispute and also to meet the ends of justice, I direct the second respondent to consider the evidence already let in and prepare a report of inquiry as specified in Rule 75(8) of Chapter XIV A KER. The second respondent shall give a reasonable opportunity of hearing to the petitioner and the third respondent. The report as directed above shall be prepared in accordance with law and the directions mentioned above, within two months from today. Accordingly, Exts.P7 and P11 are quashed

The writ petition is allowed as above. Sd/- MOHAMMED NIAS C.P., JUDGE
dlk/6.2.2024 -6- APPENDIX OF WP(C) 12097/2021 RESPONDENTS EXHIBITS
EXHIBIT R-3 (B) TRUE COPY OF THE G.O. (RT.) NO. EXHIBIT R-3 (A) TRUE
COPY OF THE PETITION ADDRESSED TO THE MINISTER FOR EDUCATION
DATED 09.09.2020 EXHIBIT R-3 (C) TRUE COPY OF THE DECISION
REPORTED IN 2009 (3) KHC 596=2009 (3) KLT 650 (ANILKUMAR P V. STATE
OF KERALA AND OTHERS DECIDED ON 23.07.2009) EXHIBIT R-3 (D) TRUE
COPY OF THE DECISION REPORTED IN 2011 (3) KHC 778 (NATARAJAN N V.
STATE OF KERALA AND OTHERS DECIDED ON 15.07.2011) EXHIBIT R-3 (E)
TRUE COPY OF THE DECISION REPORTED IN 2020 KHC

5610=ILR 2020 (4) KER. 644 (LEKHA SOMAN AND OTHERS V. STATE OF
KERALA AND OTHERS DECIDED ON 24.09.2020)

PETITIONER'S EXHIBITS EXHIBIT P1 A TRUE COPY OF THE ORDER ISSUED
BY THE PETITIONER DATED 8.1.2018 EXHIBIT P2 A TRUE COPY OF THE

COMMUNICATION DATED 1.2.2018 EXHIBIT P3 A TRUE COPY OF THE ORDER DATED 3.2.2018 EXHIBIT P4 A TRUE COPY OF THE ORDER DATED 29.11.2019 ISSUED BY THE 1ST RESPONDENT EXHIBIT P5 A TRUE COPY OF THE RELEVANT PAGES OF CHARGE SHEET SUBMITTED BEFORE THE HONBLE JFMC, PARAPPANAGADI EXHIBIT P6 A TRUE COPY OF THE MEMO OF CHARGES AND -7- STATEMENT OF ALLEGATION DATED 3.9.2018 EXHIBIT P7 A TRUE COPY OF THE ENQUIRY REPORT DATED 4.4.2019 EXHIBIT P8 A TRUE COPY OF THE REVISION PETITION DATED 26.4.2019 BEFORE THE 1ST RESPONDENT EXHIBIT P9 A TRUE COPY OF THE ARGUMENT NOTE DATED 28.1.2020 EXCLUDING DOCUMENTS EXHIBIT P10 A TRUE COPY OF THE REPRESENTATION DATED 3.2.2020 SUBMITTED BY THE PETITIONER EXHIBIT P11 A TRUE COPY OF THE ORDER DATED 25.8.2020 ISSUED BY THE 1ST RESPONDENT EXHIBIT P12 A TRUE COPY OF THE JUDGMENT DATED 25.3.2021 IN WPC NO 2916/2021

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