

**The Manager vs M. Sathianathan**

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**SooperKanoon Citation :** [sooperkanoon.com/1329638](https://sooperkanoon.com/1329638)

**Court :** Kerala

**Decided On :** Dec-12-2024

**Judge :** Honourable Mr. Justice Amit Rawal, Honourable Mr. Justice Easwaran S.

**Appeal No. :** RP/1152/2024

**Appellant :** The Manager

**Respondent :** M. Sathianathan

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MR. JUSTICE EASWARAN S. TH THURSDAY, THE 12 DAY OF DECEMBER 2024 / 21ST AGRAHAYANA, 1946 RP NO. 1152 OF 2024 AGAINST THE JUDGMENT DATED 04.09.2024 IN WA NO.442 OF 2020 OF HIGH COURT OF KERALA REVIEW PETITIONER/3RD RESPONDENT :- THE MANAGER RAMAVILASOM HIGHER SECONDARY SCHOOL, CHOKLI, THALASSERI, KANNUR, PIN - 670702 BY ADVS. NISHA GEORGE GEORGE POONTHOTTAM (SR.) RESPONDENTS/APPELLANT & RESPONDENTS 1, 2 AND 4 TO 6 :-

1 M. SATHIANATHAN, AGED 70 YEARS S/O. KUNHIKANNAN, (RETD. PRINCIPAL, RAMAVILASOM HIGHER SECONDARY SCHOOL, RESIDING AT SREEPADAM, ANIYARAM, CHOKLI, THALASSERY, KANNUR, PIN - 670672 2 STATE OF KERALA REPRESENTED BY THE SECRETARY, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 3 THE DIRECTOR OFFICE OF THE DIRECTOR OF HIGHER EDUCATION, HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM, PIN - 695001

4 N. G. RAGESH, S/O. L. NARAYANAN, HSST (ENGLISH), RAMAVILASOM HIGHER SECONDARY SCHOOL, CHOKLI, THALASSERY, KANNUR RESIDING AT MANIMA, NUT STREET, VADAKARA, KOZHIKKODE DISTRICT, PIN - 673101 5 C. P. PRALEENAN HSST (ENGLISH), RAMAVILASOM HIGHER SECONDARY SCHOOL, CHOKLI, THALASSERY, KANNUR, RESIDING AT SREESAILAM, PANDACKAL P.O., PALLOOR, MAHE, PONDICHERRY, PIN - 670672 6 PRADEEPAN NAROTH HSA (MALAYALAM), RAMAVILASOM HIGHER SECONDARY SCHOOL, CHOKLI, THALASSERY, KANNUR DISTRICT, PIN - 670672

SRI.T.K.VIPINDAS - SR.GP THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 26.11.2024, THE COURT ON 12.12.2024 DAY DELIVERED THE FOLLOWING: AMIT RAWAL & EASWARAN.S, JJ.  
..... Review Petition No.1152 of 2024 in Writ Appeal No.442 of 2020 ..... th Dated this the 12 day of December, 2024

## **ORDER**

Easwaran S., J The 3rd respondent in the appeal has come up with this review petition, aggrieved by the judgment dated 04.09.2024 rendered by us.

2. We do not propose to elaborately deal with the facts of

the case. However, suffice to say that the writ appeal was preferred from the Judgment of the learned Single Bench dismissing the writ petition preferred by the appellant. The question which arose for consideration before us in the appeal was whether the period of suspension of the appellant from 19.05.2004 to 28.05.2007 was liable to be treated as duty for all purposes. The Manager/Review

petitioner by proceedings dated 04.03.2011 issued orders regularising the period of suspension as leave without allowance, which was questioned by the appellant in the appeal before the Departmental Authority. Though by Ext.P10 order dated 04.09.2012, the same was ordered in his favour, a challenge was raised before the learned Single Bench of this Court in W.P.(C) No.22962 of 2012 by the subsequent appointee, and the said order was set aside and the matter was directed to be reconsidered. By Ext.P13 order, the matter was reconsidered and the Director of Higher Secondary Education found in favour of the appellant/writ petitioner.

3. The Review Petitioner carried forward the challenge before

the Government and the Government by Ext.P16 order, set aside the said findings. While considering the challenge against Ext.P16 order, the learned Single Judge had not only sustained the findings but also

**held the writ petitioner himself responsible for the position where he**

**found himself. This finding was interfered with by us in the Judgment**

under review. We had, while allowing the appeal restored Ext.P13

**order and directed the Government to release all the benefits due to**

the writ petitioner and further ordered that if any loss is caused to the Government on account of the said payment, the same can be recovered from the Manager. It is on this point, the Manager has sought review of our judgment rendered as

above.

4. Heard Sri.George Poonthottam, the learned Senior Counsel assisted by Smt.Nisha George, appearing for the review petitioner/Manager.

5. At the outset itself, we made our minds clear to the learned

Senior Counsel that in the guise of the review petition, we do not propose to rehear the respective contentions raised by the parties in the appeal. However, the learned Senior Counsel submitted that knowing fully the restrictions under Order 47 Rule 1 of the Code of Civil Procedure, 1908, he would demonstrate that the Judgment under review was vitiated by error apparent on the face of the record. According to the learned Senior Counsel the finding rendered by us that if any loss is caused to the Government can be recovered from the manager is certainly vitiated by error apparent on the face of the record because it is suppressing certain material facts that the writ

**petitioner had approached this Court and therefore, the judgment**

requires to be reviewed. On the limited question, we proceeded to consider the review.

6. Admittedly, the writ petitioner was kept out of service from

19.05.2004 to 28.05.2007. As per the provisions of the Kerala Educational Rules, 1959, a teacher cannot be kept under suspension for more than 15 days. Admittedly, in the present case, the Review Petitioner was not granted permission by the authorities to extend the suspension of the writ petitioner beyond 15 days and therefore, the manager was legally obliged to reinstate the writ petitioner. Instead of reinstating the writ petitioner, the Manager continued the writ petitioner under suspension. We must hasten to add that only when this Court interfered and issued a direction to the Manager to reinstate the writ petitioner in service was such an order passed. Therefore, once the disciplinary proceedings were dropped, the writ petitioner was entitled to reckon the period of suspension as duty for all purposes.

7. We are also not impressed by the argument raised by the

learned Senior Counsel Sri.George Poonthottam that it is only because of the refusal on the part of the writ petitioner to discharge his duties, he was not appointed. Pertinently, we did not issue any direction to the State to release the service benefits due to the petitioner on account of his entitlement to hold the post of Principal-in-charge. But we had only directed the release of the service benefits as a High School Teacher during the period he was kept under suspension.

8. Coming to the submissions of the learned Senior Counsel

Sri.George Poonthottam, that directions issued by us to the Government to recover any loss caused to them on account of our directions should be revisited on the ground that the same is vitiated by an error apparent on the face of the record, we find that the intention of the Review Petitioner is to reopen the entire issues, which we had concluded. As a matter of fact, it is conceded before us that the Review Petitioner had appointed another teacher in the place of the petitioner. We are not aware as to whether the said teacher has been paid the benefits during the interregnum. Be that as it may, even if the teacher was paid the benefits, that by itself cannot disentitle the writ petitioner to receive the benefits since we have already found that the findings rendered by the learned Single Judge to sustain Ext.P16 order are erroneous and vitiated. Once we were convinced that the action of the Manager in keeping the writ petitioner out of service is arbitrary and illegal and without any authority, the writ petitioner was certainly entitled for the consequential benefits, and that is the precise reason why we had issued the directions in the

### **judgment under review.**

9. On an overall consideration of the facts presented before

us, we are of the considered view that the judgment under review is not vitiated by any error apparent on the face of the record. The mala fide act of the Manager is writ large on the face of the records. Therefore, we are not persuaded to hold that there is an error apparent on the face of the record.

Accordingly, the review petition lacks merits and the same is dismissed. No order as to cost. Sd/- AMIT RAWAL JUDGE Sd/- EASWARAN S. JUDGE SMA Vide order dated 20/03/2025 in RP No.1152/2024, the following correction is made in the Order dated 12/12/2024. The words High School Teacher occurring in the 7th line of 7th paragraph of the Order at page 6 is corrected as Higher Secondary School Teacher. Sd/- Deputy Registrar

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