

**Narayanan.E vs Chief Judicial Magistrate Thalassery**

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**SooperKanoon Citation :** [sooperkanoon.com/1390070](https://sooperkanoon.com/1390070)

**Court :** Kerala

**Decided On :** Jan-03-2023

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** WP(C)/23894/2011

**Appellant :** Narayanan.E

**Respondent :** Chief Judicial Magistrate Thalassery

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
TUESDAY, THE 3RD DAY OF JANUARY 2023 / 13TH POUSHA, 1944  
WP(C) NO. 23894 OF 2011 PETITIONER: NARAYANAN.E AGED 53  
YEARS, JUNIOR SUPERINTENDENT (RETIRED),, JUDICIAL IST  
CLASS MAGISTRATE COURT-I, KANNUR,, 'ATHIRA', P.O.MORAZHA,  
KANNUR DISTRICT. BY ADVS. BALU TOM BONNY BENNY  
RESPONDENTS: 1 CHIEF JUDICIAL MAGISTRATE THALASSERY  
THALASSERY, PIN-670 101. 2 THE REGISTRAR SUBORDINATE  
JUDICIARY, HIGH COURT OF KERALA,, ERNAKULAM. BY ADV  
ELVIN PETER P.J. THIS WRIT PETITION (CIVIL) HAVING COME UP  
FOR ADMISSION ON 03.01.2023, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING: P.V.KUNHIKRISHNAN, J  
----- Dated this the  
3rd day of January, 2023

## JUDGMENT

The above writ petition is filed with the following prayers:-

- (i) quash Exhibit P2, P3, P4 and Exhibit P6 by issuing a writ of certiorari.
- (ii) to declare that the disciplinary proceedings initiated pursuant to Exhibit P4 is unsustainable:
- (iii) also to declare that the petitioner is not responsible for the missing of document alleged in Exhibit P4 and
- (iv) to grant such other and further relief as this Honourable Court may consider just and proper in the facts and circumstances of the case. [SIC]

2. The petitioner was an employee under the

Criminal Judicial Department of Kannur District. It is the case of the petitioner that he took voluntary retirement, while working as Junior Superintendent, he left his service on 30.09.2005. It is the case of the petitioner that after about 4 years, the respondent initiated disciplinary proceedings against the petitioner saying that while he was the bench clerk of the Judicial First Class Magistrate, Kannur-1, a document was missing from the case bundle bearing case No.CC.No.1283/2002. The petitioner submitted Ext.P5 reply stating that disciplinary proceedings will not lie against him under Rule 15 of Kerala Civil Services (Classification, Control and Appeal) Rules, 1960. Even then the disciplinary proceedings continued. At that stage this writ petition is filed.

3. I have heard the learned counsel for the petitioner and the standing counsel appearing for the respondents.

4. Admittedly, the petitioner retired from service

and thereafter only the disciplinary proceedings is initiated. It is also a fact that after about 4 years from the date of retirement disciplinary proceedings are initiated. This Court

**already stayed the disciplinary proceedings as per order**

dated 05.09.2011 and the interim order was extended until further orders on 06.01.2012. The stay is in force even now. In the light of the fact that the disciplinary proceedings was initiated after the retirement of the petitioner, I think the proceedings will not stand. Therefore, this petition is allowed. Ext.P4 and all further proceedings are quashed. Sd/- P.V.KUNHIKRISHNAN JUDGE TR  
APPENDIX OF WP(C) 23894/2011 PETITIONER EXHIBITS EXHIBIT P1. True copy of notice dated 26.05.2009 received to the petitioner from the JFCM, kannur-1 EXHIBIT P2. True copy of report bearing Ref.no.CC.1283/02 dated 16.12.2008 submitted by the learned Magistrate before the respondent. EXHIBIT P3 True copy of a report dated 20.03.2010 submitted by the Learned Magistrate before the respondent EXHIBIT P4 True copy of memo of charges bearing No.B.222/2008 dated 16.03.2010 issued by the respondent EXHIBIT P5 True copy of written statement dated 24.07.2010 submitted by the petitioner. EXHIBIT P6 True copy of order of the respondent dated 11.07.2011 issued to petitioner.

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