

Nadeem vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1443600

Court : Kerala

Decided On : Jun-30-2022

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/1344/2021

Appellant : Nadeem

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944
PETITIONER: NADEEM OVERSEER, THURAYOOR GRAMA
PANCHAYAT, THURAYOOR, KOZHIKODE - 673523. RESIDING AT
KADUVANCHERY HOUSE, IRINGATH P.O., PAYYOLI VIA,
KOZHIKODE DISTRICT-673 523 BY ADVS. KALEESWARAM RAJ
SRI.VARUN C.VIJAY SMT.MAITREYI SACHIDANANDA HEGDE
RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO
GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT,

SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 DIRECTOR OF PANCHAYATS PUBLIC OFFICE BUILDING, MUSEUM P.O., THIRUVANANTHAPURAM - 695 001. 3 RURAL DEVELOPMENT COMMISSIONER & MISSION DIRECTOR MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE SCHEME, FIRST FLOOR, PUNARJANI, T. C. 26/1333(2), PANAVALA JUNCTION, THIRUVANANTHAPURAM - 695 001. 4 PROGRAMME CO-ORDINATOR/DISTRICT COLLECTOR D.S.M.S.BUILDING, P. O. BOX NO.9, CIVIL STATION, KOZHIKODE - 673020. 5 PROJECT DIRECTOR AND JOINT PROGRAMME CO-ORDINATOR D.S.M.S. BUILDING, P. O. BOX NO.9, CIVIL STATION, KOZHIKODE - 673020. 6 THURAYOOR GRAMA PANCHAYAT REPRESENTED BY ITS SECRETARY, THURAYOOR, KOZHIKODE - 673523. 7 SECRETARY THURAYOOR GRAMA PANCHAYAT, THURAYOOR, KOZHIKODE - 673523. SRI.K.S.ARUN KUMAR SRI.JUSTINE JACOB JOBY JOSEPH-SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 30th day of June, 2022 This writ petition is filed seeking the following reliefs :-

i) To issue a writ of certiorari quashing Ext.P3 to the extent to which it has decided to terminate the service of the petitioner as unjust, illegal and arbitrary; ii) To issue a writ of mandamus directing the respondents to retain the petitioner in service as Overseer in Thurayoor Grama Panchayat Kozhikode as long as MGNREG scheme exists; iii) To declare that the petitioner is entitled to retain in service as Overseer in Thurayoor Grama Panchayat, Kozhikode as long as MGNREG scheme exists; iv) To issue a writ of mandamus directing the respondents to

refrain from terminating the service of the petitioner from the post of Overseer in Thurayoor Grama Panchayat, Kozhikode

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned counsel appearing for the Panchayat.

3. It is submitted by the learned counsel for the petitioner that the

petitioner was appointed under the MGNREG Scheme in Thurayur Grama Panchayat in the post of Overseer. It is stated that the contract of the petitioner was renewed from time to time.

4. However, a decision was taken by the Panchayat as Ext.P3 on

07.01.2021 to terminate the services of the petitioner on the ground that his performance was not satisfactory. The learned counsel for the petitioner submits that no performance appraisal by a duly constituted committee was conducted in the instant case and that the petitioner had continued in service on the basis of interim orders granted by this Court. It is submitted that, at present, a Government Order has been issued on 30.06.2022 extending the services of contract employees under the Scheme for a further period of two years. The extension is on condition that a performance appraisal will be conducted in July 2022 and the extension will be on the basis of the appraisal as well.

5. A statement has been filed by the 7th respondent contending that there is no valid agreement between the petitioner and the Panchayat and that the performance of the petitioner was unsatisfactory.

6. The learned Government Pleader submits that the petitioner who is, admittedly, a contract appointee under the Scheme is entitled to the benefit of the Government Order.

7. Having heard the learned counsel for the petitioner and the learned

Government Pleader, I am of the opinion that the petitioner would be entitled to continue in service on the basis of the Government Orders which have been specifically upheld by this Court unless his service is found to be unsatisfactory by

a performance appraisal committee constituted in accordance with the Government Order. Accordingly, this writ petition is disposed of directing that the service of the petitioner shall be continued on the basis of the Government Order dated 30.06.2022 and subject to the conditions provided therein. The petitioner will be entitled to the benefit of the said Government Order. A performance appraisal shall be conducted by the duly constituted appraisal committee as directed in the Government Order dated 30.06.2022 on or before 25.07.2022. The continuance of the petitioner will be subject to the performance appraisal to be conducted by such committee. All other issues are left open. This writ petition is ordered accordingly.

Sd/- ANU SIVARAMAN JUDGE NP APPENDIX OF WP(C) 1344/2021

PETITIONERS EXHIBITS EXHIBIT P1 TRUE COPY OF THE RELEVANT PAGES OF THE MINUTES OF THE GRAMA PANCHAYAT DATED 07.11.2019. EXHIBIT P2 TRUE COPY OF THE RELEVANT PAGES OF THE ATTENDANCE REGISTER OF PETITIONER. EXHIBIT P3 TRUE COPY OF THE RELEVANT PAGES OF THE MINUTES OF THE SPECIAL MEETING OF THE PANCHAYAT. EXHIBIT P4 TRUE COPY OF THE LETTER ISSUED BY THE JOINT DEVELOPMENT COMMISSIONER AND PROGRAMME CO- ORDINATOR ON 14.01.2021. EXHIBIT P5 TRUE COPY OF G.O.NO.47/16/LSGD DATED 03.03.2016. EXHIBIT P6 TRUE COPY OF G.O.NO.952/12/LSGD DATED 29.03.2012 ISSUED BY THE LSGD. EXHIBIT P7 TRUE COPY OF THE JUDGMENT DATED 21.01.2019 IN W.P.(C) NO.34541/2017. EXHIBIT P8 TRUE COPY OF THE INTERIM ORDER IN WP(C) EXHIBIT P9 TRUE COPY OF THE LETTER DATED 11.01.2021 ISSUED BY THE MISSION DIRECTOR TO THE PANCHAYAT DIRECTOR. EXHIBIT P10 TRUE COPY OF THE LETTER DATED 12.01.2021. RESPONDENTS EXHIBITS: NIL