

**M. Thyagarajan, vs State of Kerala,**

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**SooperKanoon Citation :** [sooperkanoon.com/1724880](http://sooperkanoon.com/1724880)

**Court :** Kerala

**Decided On :** Feb-22-2021

**Judge :** Honourable Mr. Justice Devan Ramachandran

**Appeal No. :** WP(C)/37093/2018

**Appellant :** M. Thyagarajan,

**Respondent :** State of Kerala,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN MONDAY, THE 22ND DAY OF FEBRUARY 2021 / 3RD PHALGUNA, 1942 PETITIONER: M. THYAGARAJAN, AGED 70 YEARS FORMER SUB JUDGE(DISMISSED), RAJ BHAVAN, KOLLAKA P.O., KARUNAGAPPALLY, KOLLAM. BY ADV. SHRI.M.K.PRADEEPAKUMAR RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY, DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 HIGH COURT OF KERALA, ERNAKULAM, REPRESENTED BY ITS REGISTRAR

GENERAL PIN-682031. 3 THE ACCOUNT GENERAL OF KERALA(A AND E), THIRUVANANTHAPURAM-695039. R1, R3 BY GOVERNMENT PLEADER R2 BY ADV. ELVIN PETER P.J. GP-SRI.SUNIL KUMAR KURIAKOSE THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

22.02.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

The petitioner says that while he was working as a Sub Judge in the Kerala Judicial Service, he was found guilty of certain misconduct and dismissed from service through Ext.P1 order. He concedes that Ext.P1 has now become final, since his challenge to the same has been subsequently rejected.

2. The petitioner has now approached this Court saying that he and his family are going through extreme financial crisis and that he has been plagued by various health

### **issues and other misfortunes in life. He says**

that he has, therefore, no other option, but to approach the Government through Ext.P7 request, seeking that he be given compassionate allowance; but alleges that the same has been rejected though Ext.P12 letter, by the Government without citing any reason whatsoever.

3. The petitioner says that Ext.P12 is

egregiously improper, since it could not have rejected his request merely saying that he is not eligible for the benefit sought for by him. He submits that this is more so for the reason that, when he approached the High Court of Kerala through a similar request, he had been informed through Ext.P8 proceedings that it is for the Government to take a decision on his representation and not the High Court. The petitioner, therefore, prays

that Ext. P12 be set aside and the Government be directed to re-consider his case sympathetically.

4. I have heard Shri.M.K.Pradeep Kumar,

learned counsel for the petitioner; Shri.Elvin Peter.P.J, the learned Counsel for the 2nd respondent - High Court of Kerala and Shri.Sunil Kumar Kuriakose, learned Government Pleader for Respondents 1 and 3.

5. Shri.Elvin Peter P.J, learned

Counsel appearing for the High Court, submitted that his client has no role to play in the prayer now made by the petitioner, since his request for compassionate allowance can be considered only by the Government and no one else. He submitted that since Ext.P1 has now become final, the petitioner cannot seek any benefit against High Court of Kerala as a matter of right. He, therefore, prayed that this Writ Petition be dismissed as against the 2nd respondent.

6. The learned Government Pleader,

Shri.Sunil Kumar Kuriakose, submitted that the Government has, through Ext.P12, rejected the petitioner's request for compassionate allowance taking note of all relevant aspects, including the fact that his services had been terminated as per Ext.P1 order, on very grievous charges. The learned Government Pleader, therefore, prayed that this Writ Petition be dismissed.

7. When I analyze the afore submissions,

I cannot find favour with the contentions of the learned Government Pleader without further scrutiny because, Ext.P12 does not cite any reason as to why the petitioner's request has been rejected. It merely says

**that Government have come to a conclusion**

that the request is not a considerable one

(sic) and then goes on to say that his

request has been declined. It is now well settled, without requirement for restatement, that each case for compassionate allowance has to be considered on its merits taking note of the peculiarities and specifics of the facts and circumstances involved; and therefore, Government could not have rejected the petitioner's request for the same merely saying that it is not a considerable one(sic).

8. Apart from the fact that this does

not make any sense semantically, it also does not disclose as to the reasons that persuaded the Government in deciding that the petitioner's request deserves to be rejected. I am, therefore, certain that representation of the petitioner has to be reconsidered by the Government appropriately.

9. When I say as afore, I must also

clarify that it does not mean that the petitioner has any vested right to claim compassionate allowance, but only that Government ought to have considered it on its own merits, after analysing the factual circumstances and assertions made by the petitioner. In the afore circumstances, I order this Writ Petition and set aside Ext.P12; with a consequential direction to the Government to reconsider the petitioner's representation - namely Ext.P7, seeking compassionate allowance - which shall be done, after affording an opportunity of being heard to him or his authorised representative - either physically or through video conferencing -

**thus culminating in an appropriate order**

thereon, as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment. Sd/- DEVAN RAMACHANDRAN  
JUDGE MC/24.2.2021 APPENDIX PETITIONER'S/S EXHIBITS:

## **EXHIBIT P1 TRUE COPY OF GOVERNMENT ORDER**

NO.G.O(MS)128/2007/HOME DATED 11.6.2007 EXHIBIT P2 TRUE COPY OF THE DISCHARGE SUMMARY DATED 14.5.2008 OF THE PETITIONER FROM P.R.S. HOSPITAL, KILLIPALAM, THIRUVANANTHAPURAM EXHIBIT P3 TRUE COPY OF ORDER NO.KBC/BA/1571/2012 DATED 12.11.2012 OF BAR COUNCIL OF KERALA EXHIBIT P4 TRUE COPY OF THE APPLICATION OF THE PETITIONER SUBMITTED BEFORE THE REGISTRAR (SUBORDINATE COURTS) EXHIBIT P5 TRUE COPY OF THE LETTER NO.RSJ13/2000(SS)- 1-1 DATED 22.7.2013 OF REGISTRAR SUBORDINATE JUDICIARY, HIGH COURT OF KERALA EXHIBIT P6 TRUE COPY OF THE RSJ13/2000(SS)-1-1 DATED 7.9.2013 OF REGISTRAR SUBORDINATE JUDICIARY, HIGH COURT OF KERALA EXHIBIT P7 TRUE COPY OF PETITIONER'S REPRESENTATION DATED 10.9.2013 BEFORE THE GOVERNMENT ADDRESSING HON'BLE HOME MINISTER OF KERALA EXHIBIT P8 TRUE COPY OF LETTER NO.RSJ13/2000(SS)-1-1 DATED 27.11.2013 OF REGISTRAR SUBORDINATE JUDICIARY, HIGH COURT OF KERALA EXHIBIT P9 TRUE COPY OF LETTER NO.P05/5115255423/1/2017-18 OF ACCOUNT GENERAL OF KERALA (A AND E) DATED 21.4.2017 EXHIBIT P10 TRUE COPY OF LETTER NO.M2-46937/17 OF DISTRICT COLLECTOR, KOLLAM DATED 5.2.2018 EXHIBIT P11 TRUE COPY OF DISCHARGE SUMMARY OF THE PETITIONER FROM TRAVANCORE MEDICAL COLLEGE HOSPITAL KOLLAM DATED 17.5.2018 EXHIBIT P12 TRUE COPY OF LETTER NO.C3/06/2017/HOME DATED 4.9.2018 FROM ADDITIONAL CHIEF SECRETARY TO GOVERNMENT EXHIBIT P13 TRUE COPY OF RELEVANT PAGES OF KERALA REVENUE GUIDE 2018 PAGE NO.224 TO 226 EXHIBIT P13(a) TRUE COPY OF RELEVANT PAGES OF KERALA VILLAGE MANUAL PARAGRAPH NO. 263 TO 269 EXHIBIT P14 TRUE COPY OF DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY THE UPASANA HOSPITAL, KOLLAM EXHIBIT P15 TRUE COPY OF DISCHARGE SUMMARY AND RELEVANT MEDICAL DOCUMENTS OF PETITIONER ISSUED BY THE MEDITRINA HOSPITAL, KOLLAM EXHIBIT P16 THE TRUE COPY OF FINAL BILL DATED ON 16.07.2019 AND DETAILED BILL THEREIN OF THE PETITIONER ISSUED BY THE MEDITRINA HOSPITAL KOLLAM