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V.Vijayan vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2020

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr. Justice Ashok Menon

Appeal No. : RP/1005/2019

Appellant : V.Vijayan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR. JUSTICE ASHOK MENON FRIDAY, THE 31ST DAY OF JANUARY 2020 / 11TH MAGHA, 1941 RP.No.1005 OF 2019 IN OP(KAT). 380/2018 AGAINST THE ORDER/JUDGMENT IN OP(KAT) 380/2018 OF HIGH COURT OF KERALA DATED 20.9.2019 REVIEW PETITIONERS/RESPONDENTS/APPLICANTS:

1 V.VIJAYAN, AGED 61 YEARS S/O. C. P. SANKARAN NAIR, VELLATTU HOUSE, MANATHAKKODE, MALAMPUZHA, PALAKKAD - 678 111. 2 K. M. UNNIKRISHNAN, KOTTICKAL HOUSE, SOPHANAM,

KAIPPILLY ROAD, ARIMPUR, TRICHUR - 680 013. 3 K. MUHAMMED IBRAHIM RAHMATHULLA KUZHIKANDATHIL HOUSE, SANTHI NAGAR, MANALODI NILAMBUR P.O., MALAPPURAM - 676 505. 4 A. SAYED MUHAMMED, SAYED MANZIL, ARABIC COLLEGE ROAD, PARALI P.O., PALAKKAD - 678 001. 5 M. V. VISWAMBARAN, MULLAPARAMBIL HOUSE, CHERAI P.O., ERNAKULAM - 682 516. 6 V. CHANDRASEKHARAN CHITHIRA, VADAKUMBAD KOVIL, CHERUVATHUR P.O., KASARGOD - 673 010. 7 K. K. KUNHIKANNAN, KANNOTH KANDIYIL HOUSE, MALOOR P.O., MATTANNUR - 670 643. 8 A. J. BABY, APPUCHAYIL HOUSE, CHERUKATTUR P.O., WAYANAD - 670 002. 9 T. D. JAGANNATH KUMAR, AMRITH BHAVAN, KUNTHANY, THOMARIMALA P.O., SULTHAN BATHERY - 670 110. 10 V. BABY JOHN DY. RANGER (RETIRED), VETTIKAKKUZHIYIL, KADAPLAMATTOM P.O., KOTTAYAM - 686 571. -2-

11 P. P. JAMALUDEEN PUTHEN VEETIL, EDAKUNNAM P.O., KOTTAYAM - 686 512. 12 K. A. ABRAHAM KACHIRACKAL HOUSE, AMARAVATHI P.O., KUMALY, IDUKKI - 685 509. 13 A. MURALEEDHARAN PILLAI MADATHIL HOUSE, PUDINHATTINKARA, NEELESHWARAM P.O., KOTTARAKKARA - 691 506. 14 E. M. AGASTHY, ILLAYADATHU VEEDU, MATHRY P.O., RAMAPURAM, KOTTAYAM - 686 576. 15 P. J. VARGHESE PLLAPPALLIL HOUSE, PARATHODE P.O., KANJIRAPPALLY, KOTTAYAM - 686 512. BY ADV. SRI.S.KRISHNAMOORTHY

RESPONDENTS/PETITIONERS: 1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, FOREST AND WILD LIFE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 CHIEF CONSERVATOR OF FOREST (ADMINISTRATION) FOREST HEAD QUARTERS, THIRUVANANTHAPURAM - 695 014. 3 ADDITIONAL PRINCIPAL CHIEF FOREST CONSERVATOR (ADMINISTRATION) VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 014. OTHER PRESENT: SR.GP SRI.ANTONY MUKKATH THIS REVIEW PETITION

HAVING COME UP FOR ADMISSION ON 31.01.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -3-

O R D E R

Dated this the 31st day of January 2020

Ashok Menon, J.

Respondents in OP(KAT) No.380/2018 aggrieved by the judgment of this court dated 20.9.2019 allowing the Original Petition along with two other Petitions in favour of the petitioners therein, are before this Court in this review petition. The review petitioners (15 in number), who are applicants in OA(EKM) No.904/2015 on the files of the Kerala Administrative Tribunal ('Tribunal, for short), are all retired Deputy Rangers/Foresters in the Forest and Wild Life Department, who got a favourable order from the Tribunal, which was upset by this Court vide the impugned judgment in the Original Petition. This Court had found that Foresters' training is mandatory for promotion to the post of Ranger. The Tribunal had found that this case is identical on facts to OA (EKM) No.535/2014 and ordered accordingly.

2. It is submitted by the review petitioners that the finding of this Court in para 15 of the -4-

judgment is an error apparent on the face of the

record and therefore, may be reviewed. That apart, it is also submitted that the Court went wrong in not noticing that except for respondents 3 and 4 in the Original Petition, the other respondents in the OP did not give any written undertaking which was relied upon by this Court to distinguish on facts, the decision of the Honourable Supreme Court in State of Punjab and Others v. Rafiq Masih [White Washer] [(2015) 4 SCC 334].

3. The review petitioners have also produced some more documents to facilitate the review of the

judgment.

4. Heard the learned counsel appearing for the review petitioners and the learned Senior Government Pleader.

5. We find that by means of this review petition

> what the petitioners/respondents want is a re-hearing and re-appreciation of the entire matter. This Court had very clearly stated how this case is different from OA(EKM) No.535/2014 and had also specified the reasons why the dictum in Rafiq Masih's case is not applicable to the case in hand. There is no error apparent on the face of the record, which needs -5-

interference in review. The review petition fails and is accordingly dismissed. Sd/- K.VINOD CHANDRAN JUDGE Sd/- ASHOK MENON JUDGE jg -6-

> APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A1 TRUE COPY OF THE ORDER IN CP(EKM) NO. 09.10.2018. ANNEXURE A2 TRUE COPY OF THE ORDER OF THE TRIBUNAL IN O.A.(EKM) NO.535/2014 DATED 22.09.2016. ANNEXURE A3 TRUE COPY OF THE RIGHT TO INFORMATION APPLICATION DATED 29.08.2019. ANNEXURE A4 TRUE COPY OF THE RTI REPLY DATED 05.09.2019 GIVEN BY THE PUBLIC INFORMATION OFFICER. ANNEXURE A5 TRUE COPY OF THE ORDER NO.E1/5113/2014 DATED 06.02.2017. ANNEXURE A6 TRUE COPY OF THE INFORMATION SOUGHT BY THE 9TH REVIEW PETITIONER UNDER RIGHT TO INFORMATION ACT DATED 30.12.2019 ANNEXURE A7 TRUE COPY OF REPLY GIVEN UNDER RTI DATED 10.1.2020 ANNEUXRE A8 TRUE COPY OF THE INFORMATION SOUGHT UNDER RTI BY 9TH PETITIONER DATED 18.12.2019 ANNEUXRE A9 THE REPLY GIVEN BY THE

DEPUTY FOREST CONSERVATOR DATED 4.1.2020.

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