

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

Con.Case(C).No. 408 of 2015 (S) IN Con.Case(C).1084/2011

JUDGMENT IN Con.Case(C) 216/2012 of HIGH COURT OF KERALA DATED
18-07-2013

PETITIONER(S)/PETITIONER :-

PRASANTH KUMAR K.P.,
S/O.LATE ACHUTHAPRAKASAN, ACHU DEVI KRIPA, POKKUNNI
VADAVANNUR P.O., PALAKKAD DISTRICT.

BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

CONTEMNOR/CONTEMNOR :-

ANNAMMA GEORGE
(AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER),
MANAGER, POLACHIRAKKAL HIGH SCHOOL, PADAGIRI P.O.
NELLIYAMPATHY, PALAKKAD DISTRICT - 678 508.
RESIDING AT: KANIYAROLIL HOUSE
MALLAPPILLY WEST P.O., PATHANAMTHITTA DISTRICT.

BY SRI.U.BALAGANGADHARAN

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

JVT

APPENDIX

PETITIONER(S) ' EXHIBITS :-

ANNEXURE A1: TRUE COPY OF THE COMMUNICATION DATED 25/07/2008
PASSED BY THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

ANNEXURE A2: TRUE COPY OF THE ORDER DATED 05/12/2008 PASSED BY
THE DIRECTOR OF PUBLIC INSTRUCTION.

ANNEXURE A3: TRUE COPY OF THE JUDGMENT DATED 30/06/2010 PASSED IN
WA NO. 983/2010 ON THE FILE OF THIS HON'BLE COURT.

ANNEXURE A4: TRUE COPY OF THE JUDGMENT DATED 07/04/2011 PASSED IN
CONT. CASE (C) NO.1440/2010 ON THE FILE OF THIS HON'BLE COURT.

ANNEXURE A5: TRUE COPY OF THE APPOINTMENT ORDER DATED 01/06/2011
ISSUED TO THE PETITIONER.

ANNEXURE A6: CERTIFIED COPY OF THE JUDGMENT DATED 20/10/2011
PASSED IN CONT. CASE (C) NO. 1084/2011.

ANNEXURE A7: TRUE COPY OF THE COMMUNICATION DATED 09/07/2013
ISSUED BY THE RESPONDENT.

ANNEXURE A8: TRUE COPY OF THE LETTER DATED 15/07/2013 ENTRUSTED
BY THE PETITIONER TO THE HEADMISTRESS OF THE SCHOOL.

ANNEXURE A9: CERTIFIED COPY OF THE JUDGMENT DATED 18/07/2013
PASSED IN CONT. CASE (C) NO. 216/2012.

ANNEXURE A10: TRUE COPY OF THE ORDER DATED 20/05/2014 (NO. L.DIS.
B4/5502/2013) PASSED BY THE DISTRICT EDUCATIONAL OFFICER,
PALAKKAD.

ANNEXURE A11: TRUE COPY OF THE ORDER No.EMI/34768/13/DPI/K.Dis
DATED 11.3.2014 PASSED BY ADDL.DPI.

RESPONDENT(S) ' EXHIBITS :- NIL

//True Copy//

P.A. To Judge

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

Cont.Case (C) No.408 of 2015

Dated this the 4th day of June 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court alleging willful contempt on the part of the respondent inter alia stating that Annexure-A10 order is against the directions issued by this Court as per Annexure-A6 judgment in COC No.1084 of 2011. According to the petitioner, he was permitted to rejoin duty on 1.6.2011 as per Annexure-A5 order dated 1.6.2011. While so, he was terminated from the service on flimsy grounds, which resulted in Annexure-A6 judgment dated 20.10.2011, wherein, this Court observed that the petitioner should be allowed to rejoin duty treating the appointment order issued pursuant to the judgment as valid. However, according to the petitioner, no action had been taken in the matter and ultimately, Annexure-A7 order dated 9.7.2013 was issued directing the petitioner to rejoin duty and he rejoined duty on 15.7.2013. At this juncture, Annexure-A10 order dated 20.5.2014 was issued stating that the petitioner was appointed only with effect from 15.7.2013 in the promotion vacancy of one Suresh M., FTM as Peon.

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2. According to the petitioner, his duty ought to have commenced from 1.6.2011 in terms of Annexure-A5 appointment order.

3. After having perused the records and considered the submissions made by the learned counsel for the petitioner, we do not think that any willful contempt has been made out. According to the petitioner, his date of rejoining duty ought to have commenced from 1.6.2011 instead of 15.7.2013. This apparently is a disputed question of fact which requires to be resolved and therefore, we cannot treat the said document as the outcome of willful contempt.

Having regard to the aforesaid factual situation, we close the contempt case leaving open right to the petitioner to challenge Annexure-A10 in appropriate proceedings.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE