

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

OP(C).No. 329 of 2015 (O)

(Against the order dtd.28.11.14 in I.A.106/13 in I.D.36/97 OF LABOUR
COURT, KANNUR)

PETITIONER/UNION:

SECRETARY, KERALA CO-OPERATIVE EMPLOYEES FRONT,
MANANTHAVADY TALUK COMMITTEE.

BY ADV. SMT.CELINE JOSEPH

RESPONDENT/MANAGEMENT:

SECRETARY, MANANTHAVADY BLOCK CO-OPERATIVE STORE LTD,
MANANTHAVADY - 673 001.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 329 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:

- P1- TRUE COPY OF THE CLAIM STATEMENT FILED BY THE UNION BEFORE THE RESPONDENT.
- P2- TRUE COPY OF THE REPLY STATEMENT IN CLAIM PETITION FILED BY THE RESPONDENT.
- P3- TRUE COPY OF THE REJOINDER FILED BY THE UNION TO THE REPLY STATEMENT FILED BY THE MANAGEMENT.
- P4- TRUE COPY OF THE AFFIDAVIT AND PETITION FOR AMENDING THE CLAIM STATEMENT.
- P5- TRUE COPY OF THE ORDER DATED 28.11.14 IN I.A.NO.106/2013 IN I.D.NO.36/97 OF THE LABOUR COURT, KANNUR.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.329 OF 2015

Dated this the 11th day of February, 2015.

J U D G M E N T

Amendment application moved by the claimant was dismissed by the court below on the ground that it has no relevance now. That order is challenged in this original petition.

2. The petitioner herein is the Secretary of the Union who espoused an industrial dispute for and on behalf of the workman who is a member of the union. For undesirable activities, disciplinary action was initiated against the workman and after enquiry, he was dismissed from service. Appeal filed by the workman was also dismissed. That gave rise to an industrial dispute which was referred to under Section 10 of the Industrial Disputes Act and the Tribunal was seized of the matter. On examination, it was found that the domestic enquiry conducted is bad in law and therefore, that was held to be vitiated. The order

of the Tribunal was challenged by the management before this Court and this Court upheld the order of the Tribunal. Evidence was permitted to be adduced before the Tribunal.

3. Amendment application was moved after the workman tendered evidence in part. By way of amendment, the claimant sought to introduce the plea that the appellate authority was biased and the order passed by the appellate authority therefore violates the principles of natural justice and therefore, the order cannot be sustained in law.

4. The authority below found that the amendment application has no relevance in the light of the fact that enquiry was held to be bad in law and further evidence was permitted to be adduced. The view taken by the lower authority seems to be correct. Since disciplinary proceedings have already been found to be bad in law, management is adducing further evidence so also the workman and the power to take any decision after materials are available vests with the Tribunal. Once an order is passed by the Tribunal, the earlier order no longer exists. If the

disciplinary proceedings is found to be vitiated, earlier order of the disciplinary authority can no longer exist. Viewed from that angle, it cannot be said that there is any basis for the claim of the petitioner.

This original petition is without merits and it is accordingly dismissed.

Sd/-

P.BHAVADASAN
JUDGE

smp