

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN

&

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

OP (CAT).NO. 4 OF 2015 (Z)

OA 599/2013 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

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PETITIONER:

MOHAMMED KUDAGE, AGED 55 YEARS
S/O.V.A.HUSSAIN
EXECUTIVE ENGINEER (UNDER SUSPENSION)
LAKSHADWEEP PUBLIC WORKS DEPARTMENT, KAVARATTI
UT OF LAKSHADWEEP
RESIDING AT "D-20" GOVERNMENT QUARTERS, KAVARATTI
UT OF LAKHADWEEP - 682 555.

BY ADVS.SRI.M.A.SHAFIK
SMT.SHAMEENA SALAHUDHEEN
SRI.N.M.SIYAD

RESPONDENTS:

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY
MINISTRY OF HOME AFFAIRS, NORTH BLOCK
NEW DELHI - 110 011.

2. THE ADMINISTRATOR,
UT OF LAKSHADWEEP, KAVARATTI - 682 555.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 12-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (CAT).NO. 4 OF 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE ORIGINAL APPLICATION NO.599/2013 FILED
BEFORE THE C.A.T.

EXHIBIT P2. TRUE COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS
IN O.A.599/2013 BEFORE THE C.A.T.

EXHIBIT P3. TRUE COPY OF THE REJOINDER FILED BY THE PETITIONER IN
O.A.599/2013 BEFORE THE C.A.T.

EXHIBIT P4. TRUE COPY OF THE ADDL. REPLY STATEMENT FILED BEFORE THE
C.A.T. IN O.A.599/2013.

EXHIBIT P5. TRUE COPY OF THE ORDER DATED 25.11.2014 OF THE C.A.T.
ERNAKULAM BENCH IN O.A.599/2013.

EXHIBIT P6. TRUE COPY OF THE ORDER F.NO.12/20/2012-SERVICE/2236 DATED
08.12.2014 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

OKB

TRUE COPY

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.P.(CAT) No.4 of 2015

Dated this the 12th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the petitioner and the learned Standing Counsel for the UT of Lakshadweep quite in extenso.

2. The petitioner has invoked Article 227 of the Constitution of India to challenge the decision of the Central Administrative Tribunal, Ernakulam Bench, whereby the Tribunal refused to interfere with an order of suspension of the petitioner.

3. The CBI registered an F.I.R. on 20/2/2009 under various sections of IPC and PC Act against several persons, including the petitioner. Though the petitioner is an Executive Engineer in the service of Lakshadweep Public Works Department, he was in additional charge of the post of Secretary to the Administrator at Cochin. The CBI F.I.R. related to allegations of illegal diversion and sale of subsidised high speed diesel at open market rates. On 6/11/2012, the UTL administration granted sanction to prosecute the petitioner. He was placed under suspension under Rule 10(1) of CCS (CCA) Rules, 1965 on 22/9/2012. The

order of suspension was reviewed from time to time and the suspension continued to be extended. Ultimately, on judicial review, the Tribunal, going by Ext.P5 order, considered all the relevant aspects and took note of the relevant precedent law and held that the records show that the order of suspension was issued in compliance with the rules and instructions of DOPT referred to in that decision of the Tribunal. The Tribunal turned down the petitioner's plea that he is victim of a conspiracy to replace natives of UTL with persons from the main land. The Tribunal's order is rendered giving appropriate consideration to all relevant facts which could be taken cognizance of while adjudicating the challenge to an order of suspension. Nevertheless, the Tribunal was of the view that the petitioner having been kept under suspension as far back as on 22/9/2012, the establishment cannot simply sit back and keep on extending his suspension from time to time. Under such circumstances, the Tribunal has given clear direction to the establishment to review the suspension in a time bound manner in the light of the relevant directions of DOPT and the precedent law and also the observations of the Tribunal as are contained in the impugned Ext.P5 decision rendered by the Tribunal.

4. Having examined the contents of Ext.P5, we do not think that the said decision is liable to be interfered in exercise of

jurisdiction under Article 227 of the Constitution. There is no legal infirmity or jurisdictional error. The direction given by the Tribunal appears to be in the best interest of the petitioner. Under such circumstances, we see no ground to entertain this original petition. There is no ground to set aside the suspension of the petitioner with the materials dealt with by the Tribunal. This petition under Article 227, therefore, fails.

In the result, this original petition is dismissed. However, we record that the issuance of Ext.P6 at a point of time after the Tribunal's Ext.P5 order does not, in any manner, take away the responsibility of the establishment to consider the question of reviewing the suspension order as directed in Ext.P5, since we are satisfied that Ext.P6 is not issued in compliance with the directions in Ext.P5.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.