

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

OP (CAT) .No. 182 of 2014 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 180/2014 of CENTRAL ADMINISTRATIVE
TRIBUNAL, ERNAKULAM BENCH DATED 31-10-2014

PETITIONER(S) :

BEENA BEEGOM
W/O.M.K.ABDULLA, ASSISTANT MANAGER, FINANCE,
MATERIALS DEPARTMENT
HINDUSTAN ORGANIC CHEMICALS LIMITED, KOCHI UNIT
AMBALAMUGAL, RESIDING AT MANADATH HOUSE
ASARIKADAVU ROAD, ALUVA-683 101.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT(S) /RESPONDENTS:

1. HINDUSTAN ORGANIC CHEMICALS LIMITED
HARCHANDRAI HOUSE, 81, MAHARSHI KARVE ROAD
MANAYIL LINES, MUMBAI- 400 002
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR.

2. THE CHAIRMAN & MANAGING DIRECTOR,
HINDUSTAN ORGANIC CHEMICALS LIMITED, 2ND FLOOR
NECO CHAMBER, PLOT NO.48, SECTOR 11
CBD, BELAPUR, NAVI MUMBAI- 400 614.

3. THE CHIEF GENERAL MANAGER (P & A), HINDUSTAN ORGANIC
CHEMICALS LIMITED, KOCHI UNIT, AMBALAMUGAL, PIN 682015

4. THE EXECUTIVE DIRECTOR,
UNIT IN CHARGE, HINDUSTAN ORGANIC CHEMICALS LIMITED
REGISTERED OFFICE AND FACTORY, PO RASAYANI, RAIGAD
MAHARASHTRA- 410 207.

R. BY ADV. SRI.V.KRISHNA MENON

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 06-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: TRUE COPY OF O.A.NO.180/00614/2014 FILED BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH WITH ANNEXURES.

EXHIBIT P2: TRUE COPY OF REPLY STATEMENT DATED 18.08.2014 FILED ON 180/00614/2014 BEFORE THE CERNTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXHIBIT P3: TRUE COPY OF REJOINDER DATED 26.08.2014 FILED BY THE PETITIONER.

EXHIBIT P4: TRUE COYP OF M.A.1056/2014 IN O.A.NO.180/00614/2014 WITH ANNEXURES.

EXHIBIT P5: TRUE COPY OF ORDER DATED 31.10.2014 IN O.A.NO.180/00614/2014.

EXHIBIT P6: TRUE COPY OF LETTER DATED 09.03.2015 ISSUED BY THE COMPANY SECRETARY, HINDUSTAN ORGANIC CHEMICALS.

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON

&

SUNIL THOMAS, JJ.

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Dated, this the 6th day of August, 2015

JUDGMENT

Ramachandra Menon, J.

The petitioner herein was the applicant before the Central Administrative Tribunal - Ernakulam in O.A. No. 180 of 20016. While working as Assistant Manager in the Finance Department of the respondent Company (Hindustan Organic Chemicals Ltd. - a Government of India undertaking), disciplinary proceedings were initiated against her, raising the charge that she had forged signature of the Head of the Department in the medical claims submitted by her. A domestic enquiry was conducted and in the meanwhile, the petitioner submitted an application for voluntary retirement. On completion of the enquiry, report was submitted on 10.02.2014 finding the applicant guilty of the charges levelled against her. Considering the gravity of proven misconduct, Annexure A2 order was issued on 08.05.2014 imposing penalty by reverting the applicant as Senior Officer, Management Support System. Considering the

organizational requirement and in view of the chance to affect the morale of other employees, as per the same order, she was transferred to Rasayani Unit of the respondent No. 1 in Maharashtra. The petitioner challenged the said order by filing Annexure A3 appeal; mainly against the 'reversion' and incidentally against the transfer as well, seeking for a direction to drop the proceedings and to permit her to continue in the Unit at Ambalamughal.

2. By virtue of the adverse circumstances resulted and delay in considering and finalizing the appeal, the petitioner was constrained to approach the Central Administrative Tribunal, Ernakulam by filing O.A. No. 180 of 2014. After hearing both the sides, the Tribunal accepted the version of the respondent Company as to the compelling circumstances by which transfer was effected (which alone was the subject matter of consideration therein, as the issue with regard to the 'punishment' was subjected to challenge by way of appeal before the first respondent). The Tribunal arrived at a finding that the transfer was not liable to be intercepted. The Tribunal directed the respondent Company to finalize the appeal within two months, after affording an

opportunity of personal hearing, if so desired, by passing a speaking order, to be communicated to the applicant. Since no interference was made with regard to the transfer, the petitioner has sought to challenge the verdict passed by the Tribunal (vide Ext. P5) by filing the present original petition.

3. When the matter came up for consideration before this Court on 18.12.2014, the petitioner submitted that she had already applied for 'VRS' and if the same was not acceptable for some or other reasons, she was ready to tender resignation. In the said circumstances, as per the order dated 18.12.2014, another Bench of this Court directed the respondents to consider the application for resignation, if submitted on or before 23.12.2014 and communicate the outcome at the earliest, at any rate before 05.01.2015, ordering 'status quo' as on that date (which according to the Company was that the applicant stood already relieved on 31.05.2014). Based on the above order, the resignation tendered by the petitioner was accepted and the outcome was communicated to her. As per the said communication, the petitioner was let known that resignation was from the post of 'Senior Officer' and not from the post of Assistant Manager. In the above circumstances,

as per order dated 05.01.2015, another Bench of this Court required the first respondent to state whether the petitioner could be permitted to resign from the post which she had held before imposition of the punishment or as to the time required to dispose of the appeal already preferred by the petitioner against the order imposing penalty.

4. When the matter came up for consideration on 28.01.2015, it was brought to the notice of this Court that the respondent being a Company, was not in a position to allow the petitioner to retire from the post of Assistant Manager, as reversion had already taken place and that the penalty imposed was on the basis of proven charges. In the said circumstance, the Bench observed that the order dated 18.12.2014 needed to be clarified and hence directed the matter to be posted before the very same learned Judges who passed the order. Accordingly, the matter came up for consideration before the very same Bench on 09.02.2015. After hearing both the sides, the course pursued by the respondent Company and the learned counsel was deprecated and the interim order dated 18.12.2014 was recalled and the respondent Company was directed to finalize the appeal within 30

days. Explanation offered by the Company was that, in view of the pending proceedings with regard to the resignation submitted by the petitioner, the appeal could not be disposed of within the statutory time limit.

5. When the matter came up for consideration on 29.07.2015, it was brought to the notice of this Court by the learned counsel for the petitioner that, though in view of the interim order dated 09.02.2015, the appeal preferred by the petitioner was considered, the order was passed without giving any opportunity of hearing to the petitioner. A copy of the relevant proceedings is produced as Ext. P6 along with I.A. No. 4236 2015 (copy of the said order is sought to be produced by the respondent Company as well along with a memo). This was sought to be verified by the respondent Company, who has filed a statement pointing out that there was no direction in the order dated 09.02.2012 to afford an opportunity of hearing to the petitioner and further that the appeal had to be finalized within 30 days, as specified in the order passed by this Court. It was also contended that the relevant Rules of the Company did not envisage extension of any opportunity of hearing in the appeal and

that, in view of the exigency, the matter was caused to be considered by the Board of Directors, by circulation. But the fact remains that the Tribunal, as per the order under challenge had directed the respondent Company to consider and finalize the appeal, after giving an opportunity of being heard, which stands in tact. This Court finds that no much time needs be spent with regard to these aspects, as the Company has stated in crystal clear terms, vide statement filed on 03.08.2015, that the meeting of the next Board of Directors is scheduled to be held on 11.08.2012 at the Board Room of HOCL Guest House, 511-512, Nestle Apartment , Wing C, P.B. Marg, Lower Parel of the first respondent at Mumbai and that if so directed, the Board of Directors of the first respondent Company is ready and willing to reconsider the appeal, after affording an opportunity of hearing to the petitioner.

6. The learned counsel appearing for the petitioner submits that the petitioner is ready to appear before the Board on 11.08.2015 at 11 am. In the said circumstances, it is made clear that no separate notice does require to issue by the respondent Company, as the position has been taken note of through the counsel. It is for the petitioner to appear before the Board at the

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specified time, date and spot; on which event, Annexure A4 appeal preferred by the petitioner shall be reconsidered and orders shall be passed in accordance with law, after giving an opportunity of hearing to the petitioner, which shall be done at the earliest, at any rate, within 30 days. So as to facilitate such an exercise, Ext. P6 appellate order produced along with I.A No. 4236 of 2015 will stand set aside. It is also made clear that, if the petitioner for any reason does not appear before the Board of Directors on the scheduled date and time, it will be open for them to proceed with further steps and finalize the appeal in accordance with law.

The Original Petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
JUDGE.**

Sd/-

**SUNIL THOMAS,
JUDGE.**

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