

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

RP.No.790 of 2015 IN WP(C).10459/2005

AGAINST THE ORDER/JUDGMENT IN WP(C) 10459/2005 of HIGH COURT OF KERALA
DATED 29-06-2015

REVIEW PETITIONER/PETITIONER IN WRIT PETITION:

B.JAYAKUMAR,
REDDIAR BUILDINGS, VANROSS JN, THIRUVANANTHAPURAM 39.

BY ADVS.SRI.V.JAYAKUMAR

RESPONDENTS/RESPONDENTS IN THE WRIT PETITION:

1. THE FOOD CORPORATION OF INDIA,
REPRESENTED BY THE MANAGING DIRECTOR,
16-20 BARAKHAMBHA LANE, NEW DELHI-110 001.
2. THE CHAIRMAN,
FOOD CORPORATION OF INDIA, 16-20 BARAKHAMBHA LANE,
NEW DELHI-110 001.
3. THE ZONAL MANAGER,
FOOD CORPORATION OF INDIA, ZONAL OFFICE, MADRAS-600 003.
4. THE SENIOR REGIONAL MANAGER,
FOOD CORPORATION OF INDIA, KESAVADASAPURAM,
THIRUVANANTHAPURAM. 695001.

BY SRI.T.P.M.IBRAHIM KHAN, SC, FCI

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 06-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANIL K.NARENDRA, J.

R.P.No.790 of 2015
in
W.P.(C)No.10459 of 2005

Dated this the 6th day of October, 2015

ORDER

This is a review petition filed by the writ petitioner in W.P.(C) No.10459 of 2005 seeking an order to review the judgment of this Court dated 29.6.2015 in that Writ Petition.

2. The review petitioner, who was working as Grade III Assistant in Food Corporation of India (FCI), was dismissed from service by Ext.P2 order dated 14.1.1986. He has filed the aforesaid Writ Petition seeking a writ of certiorari to quash Ext.P16 order dated 3.1.2005 issued by the 1st respondent as it is not in compliance with Ext.P13 judgment of this Court in O.P.No.26615 of 2000. He has also sought for other consequential reliefs.

3. By judgment dated 29.6.2015 W.P.(C)No.10459 of 2005 was allowed by setting aside Ext.P16 order passed by the 1st respondent and directing the said respondent to reconsider the matter and to pass a reasoned order strictly in accordance with the directions contained in Ext.P13 judgment. It was also ordered that

such exercise shall be undertaken within a period of three months from the date of receipt of a certified copy of the judgment with notice to the petitioner and after affording him a reasonable opportunity of being heard. It was also made clear that, since the other reliefs sought for in the Writ Petition are depending upon the decision that has to be taken by the 1st respondent pursuant to that judgment, all such issues are left open. It is seeking review of the said judgment, the petitioner has filed this review petition.

4. I heard arguments of the learned counsel for the petitioner and learned Standing Counsel for the respondents.

5. The learned counsel for the review petitioner would contend that there is error apparent on the face of the record and as such the judgment is liable to be reviewed. In view of the specific findings of this Court in Ext.P13 judgment, instead of remanding the matter to the 1st respondent for reconsideration, this Court ought to have allowed the Writ Petition and exonerated the petitioner taking note of the fact that the watchman against whom disciplinary proceedings were initiated in relation to the very same incident was

exonerated from the charges by Ext.P10 order, giving the benefit of doubt.

6. The fact that Ext.P16 order passed by the 1st respondent is not a reasoned order is not in dispute. By Ext.P13 judgment, this Court has directed the 1st respondent to reconsider the matter after taking note of the punishment granted to another employee, which is reflected in Ext.P10 order. The articles of charge issued to the petitioner, who was then working as Assistant Grade III (D) includes unauthorised removal of lorry load of rice from Kochuveli goods shed for personal gain, manipulation of accounts, etc. It is also alleged that the petitioner, who was instrumental to and masterminded the unauthorised removal of stocks from the goods shed, committed gross misconduct and failed to maintain absolute integrity and devotion to duty. Therefore, it is for the 1st respondent to take a decision as to whether the petitioner should be exonerated from the charges or not, in terms of the direction contained in Ext.P13 judgment. This Court, in exercise of the discretionary jurisdiction under Article 226 of the Constitution of India, is not sitting in appeal

over the punishment imposed by the disciplinary authority and confirmed by the appellate and revisional authorities. In that view of the matter, whether the petitioner is entitled for a similar treatment in terms of Ext.P10 order, is something to be decided by the 1st respondent on the basis of the materials on record. Since Ext.P16 order is not supported by any reason whatsoever, this Court set aside the same and directed the 1st respondent to reconsider the matter.

I find absolutely no ground to review of the judgment dated 29.6.2015 in W.P.(C)No.10459 of 2005. In the result, this Review Petition fails and the same is dismissed. No order as to costs.

Sd/-

ANIL K.NARENDRA, JUDGE

skj