

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

RP.No. 1144 of 2015 () IN OP (CAT).69/2015

AGAINST THE JUDGMENT IN OP (CAT) 69/2015 OF THE HIGH COURT OF KERALA
DATED 16-10-2015

REVIEW PETITIONER(S)/RESPONDENTS 1-3:

1. THE DEPUTY COMMISSIONER, KENDRIYA VIDYALAYA SANGATHAN (KVS)
REGIONAL OFFICE, SECUNDERABAD, TELEGANA STATE
PIN-500009, REPRESENTED BY S.SELVARAJ
DEPUTY COMMISSIONER, KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE, ERNAKULAM, KADAVANTHRA
KOCHI-682020.
2. THE COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN, 18, INSTITUTIONAL AREA
S.J.SINGH MARG, NEW DELHI-110016
REPRESENTED BY S.SELVARAJ, DEPUTY COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE
ERNAKULAM, KADAVANTHRA, KOCHI-682020.
3. THE PRINCIPAL, KV NO.1, UPPAL, HYDERABAD
TELENGANA STATE-500039, 18, INSTITUTIONAL AREA
S.J.SINGH MARG, NEW DELHI-110016, REPRESENTED BY S.SELVARAJ
DEPUTY COMMISSIONER, KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE, ERNAKULAM, KADAVANTHRA
KOCHI-682 020.

BY ADV. SRI.K.I.MAYANKUTTY MATHER

RESPONDENT(S)/PETITIONER & 4TH RESPONDENT:

1. JOHNSON P.JOHN, AGED 53 YEARS,
(EX)PGT-PHYSICS, GOSPEL MOUNT, DHONI P.O.
PALAKKAD-678009.
2. S.M.SALEEM, (EX) DEPUTY COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE
SECUNDERABAD, TELEGANA STATE
PIN-500009 NOW WORKING AS DEPUTY COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE
IIT CAMPUS, CHENNAI-600 036.

R1 BY SRI.JOHNSON P.JOHN (PARTY-IN-PERSON)

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
07-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BKA/-

**K. SURENDRA MOHAN,
&
SHAJI P. CHALY, JJ.**

R.P. No. 1144 of 2015
in
O.P. (CAT) No. 69 of 2015

Dated this the 7th day of December, 2015

O R D E R

K. Surendra Mohan, J.

The respondents seek review of the judgment dated 16.10.2015 in OP(CAT) No.69/2015, allowing the same.

2. The 1st respondent, while working as a PG (Physics) Teacher at Kendriya Vidyalaya, Uppal, Hyderabad, had submitted an application for voluntary retirement on 01.09.2012. However, the application was rejected by the 1st petitioner herein stating that, the same was conditional. On 05.11.2012, the 1st respondent submitted another application for voluntary retirement, which was also worded similarly as the earlier one. The authorities directed the 1st respondent to apply afresh. According to the petitioners, the 1st respondent had

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thereafter worked at the school till 15.04.2013. He had also submitted an application seeking Extraordinary Leave with effect from 16.04.2013 to 22.04.2013. The leave was not sanctioned. However, since the 1st respondent remained absent, a show cause notice was issued to him. Thereafter, he was terminated from service. The 1st respondent had unsuccessfully challenged his removal from service before the Central Administrative Tribunal. It was the said order, that was under challenge before us in OP(CAT) No.69/2015.

3. After hearing the 1st respondent as well as the counsel for the petitioners, we had allowed the Original Petition, as per the impugned judgment. According to the counsel for the petitioners, there was an adjudication with respect to the termination of the 1st respondent under Article 81(D) of the Education Code of Kendriya Vidyalaya Sangathan. The order passed under the said provision continues to exist, which is a fact, that has not been taken note of by the judgment sought to be

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reviewed. The above, according to the counsel for the petitioners, is an error apparent on the face of the record, necessitating a review thereof.

4. We have heard the counsel for the petitioners as well as the 1st respondent, who has appeared before us in person.

5. We are not satisfied that there is any error apparent on the face of the record, warranting a review of the judgment, as sought for. We have held in our judgment that the application for voluntary retirement submitted by the petitioner was in compliance of the relevant provisions of the Fundamental Rules and that the same had taken effect on the expiry of the statutory period, that was stipulated. No proceedings were initiated against the petitioner within the notice period of three months stipulated by the Fundamental Rule 56(k). Therefore, the voluntary retirement of the petitioner had taken effect and the proceedings initiated by the 1st respondent under Article 81(D) of the Education Code of

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Kendriya Vidyalaya Sangathan, after the voluntary retirement of the petitioner had taken effect, was of no consequence at all. Therefore, the same was only to be ignored. We have noticed in our judgment that, the action initiated against the petitioner after the expiry of the three months' notice period stipulated, was of no avail.

The above being the position, we do not find any ground to review the judgment as sought for. The Review Petition is, accordingly, dismissed.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

bka/08.12.2015

//True copy//

PA to Judge