

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

W.A.No. 606 of 2012 () IN WP(C).5833/2006

AGAINST THE JUDGMENT IN W.P(C) NO.5833/2006 OF HIGH COURT OF KERALA DATED
19-12-2011

APPELLANT(S)/RESPONDENTS 3 & 4 IN W.P.(C) :

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL ADMINISTRATION DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT.

BY SR. GOVERNMENT PLEADER, SRI. P. FAZIL

RESPONDENT(S)/PETITIONERS AND RESPONDENTS 1 & 2 IN W.P.(C) :

1. P.K. VASU (LATE),
PUTHENVELIYIL, CMC 28, ARTHUNKAL ROAD, CHERTHALA.P.O.,
ALAPPUZHA DISTRICT-688 524.
2. JANAKI,
W/O. LATE VASU, PUTHENVELIYIL, CMC 28, ARTHUNKAL ROAD,
CHERTHALA.P.O., ALAPPUZHA DISTRICT-688 524
3. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS, NEW DELHI-110003.
4. THE SECRETARY TO GOVERNMENT
MINISTRY OF HOME AFFAIRS, LOK NAIK BHAVAN, KHAN MARKET,
NEW DELHI-110 003.

R1 & R2 BY SRI.B.KRISHNA MANI

R3-R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.606 OF 2012

Dated this the 5th day of June, 2015

JUDGMENT

Antony Dominic, J.

This writ appeal is filed against the judgment of the learned Single Judge in W.P.(C) No.5833 of 2006. The said writ petition was filed by the Respondents 1 and 2 herein, complaining of non-consideration of Ext.P1 application submitted for pension under the Swatantrata Sainik Samman Pension scheme. Though the Government of Kerala passed order dated 26.09.2007, declining to recommend the application to the Central Government, the said order was not served on the respondents. However, pursuant to the order dated 01.12.2011 passed in the writ petition, that order was produced in Court. Thereupon, the learned Judge delivered the judgment under appeal, dismissing the writ petition, but, however, imposing costs of Rs.10,000/- on the appellants for not serving the order dated 26.09.2007 on the respondents. It

is aggrieved by the imposition of costs, this writ appeal is filed.

2. Having heard the counsel for the parties, we find that there is no statutory or other obligation on the appellants to have served the order dated 26.09.2007 on the applicant for Freedom Fighters Pension. If that be so, the failure to serve the order on the respondents 1 and 2 cannot be said to be a failure of a statutory or other duty, leading to any consequence. Therefore, according to us, this was not a fit case where costs could have been imposed on the appellants. For that reason, we delete the direction in the judgment of the learned Single Judge, requiring payment of Rs.10,000/- as costs to the respondents 1 and 2.

The appeal is disposed of accordingly.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI .P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-