

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WA.No. 1231 of 2011 ()

AGAINST THE JUDGMENT IN RP 505/2011 of HIGH COURT OF
KERALA DATED 11-07-2011

AGAINST THE JUDGMENT IN WP(C) 11493/2011 of HIGH COURT OF
KERALA

APPELLANT(S)/PETITIONER:

SAJU K.THANKAPPAN, ASST.ENGINEER(AGRL.),
RESEARCH TESTING AND TRAINING CENTRE (RTT CENTRE)
VELLAYANI P.O., THIRUVANANTHAPURAM-695 522, R/AT
PAINKUNI NIKETHAN, SREERAM NAGAR, SPRA HOUSE NO.
245, NETTAYAM P.O., PEROORKADA V

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.VADAKARA V.V.N.MENON
SMT.SMITHA GEORGE

RESPONDENT(S) :

1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
AGRICULTURE, DEPARTMENT GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE DIRECTOR OF AGRICULTURE,
OFFICE OF THE DIRECTOR OF AGRICULTURE,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 001.

3. THE DEPARTMENTAL PROMOTION COMMITTEE
(LOWER) FOR MAKING PROMOTIONS TO THE POST OF
ASSISTANT ENGINEER (AGRL.), REPRESENTED BY ITS
CONVENOR, THE DIRECTOR OF AGRICULTURE, VIKAS
BHAVAN, THIRUVANANTHAPURAM-695 033.

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4. P.L.MAJU,
ASSISTANT ENGINEER (AGRL.),
VELLAYANI, VELLAYANI P.O.
THIRUVANANTHAPURAM-695 522.

5. A.DAMODARAN,
ASSISTANT ENGINEER (AGRL.), OFFICE OF THE
ASSISTANT EXECUTIVE ENGINEER (AGRL.), KARANDAKADA
NEAR BLOCK OFFICE, KASARAGOD
KASARAGOD DISTRICT-671 121.

6. K.DINESAN,
MECHANIC, OFFICE OF THE ASSISTANT EXECUTIVE
ENGINEER (AGRL.), MELACHOVVA, KANNUR
KANNUR DISTRICT-670 018.

7. P.B.SANTHOSH,
ASSISTANT ENGINEER (AGRL.), OFFICE OF THE
ASSISTANT EXECUTIVE ENGINEER (AGRL.), MANJERI
MALAPPURAM DISTRICT-676 121.

R6 BY ADV. SRI.P.NARAYANAN
GOVERNMENT PLEADER SRI. P.I. DAVIS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK BHUSHAN , Ag. CJ,
&
A.M.SHAFFIQUE, J.

.....
W.A.No.1231 of 2011
.....

Dated this the 21st day of January, 2015

JUDGMENT

Shaffique, J.

This appeal has been filed by the Writ Petitioner challenging the order dated 11-7-2011 in R.P. No. 505 of 2011 in W.P.C. No. 1149/2011. The Writ Petition was filed seeking inter alia for a direction to declare the petitioner as senior to respondents 4 to 6 in the post of Assistant Engineer and for certain consequential reliefs.

2. When the Writ Petition came up for hearing, this Court observed that in an earlier Writ Petition filed for the same relief has been dismissed as withdrawn. No liberty was granted by this Court to file a fresh Writ Petition. In the said premise, this

Court found that the Writ Petition is an abuse of process and by judgment dated 8-4-2011 Writ Petition was dismissed with costs of Rs. 15,000/- to be paid to the Kerala Mediation Centre. Appeal was filed against the said judgment. The Division Bench did not interfere with the order passed and permitted the petitioner to file a review petition. Accordingly, R.P. No. 505/2011 was filed. The said Review Petition came to be dismissed by the impugned order further indicating that the Review Petition itself amounts to further abuse of process of the court and accordingly, the Review Petition was dismissed with further cost of Rs. 15,000/- to be paid to the Kerala Mediation Centre within two weeks.

3. Learned Sr. Counsel appearing for the petitioner, impugning the aforesaid direction submits that the filing of the earlier W.P.C.1149/2011 cannot be termed to be an abuse of process of Court and at any rate a Review Petition filed as

observed by the Division Bench of this Court could not have been dismissed with costs. Having gone through the judgment dated 8-4-2011 and the judgment in the Review Petition, we are of the view that imposition of costs on the petitioner was excessive.

In the result, we set aside the cost imposed in R.P. 505/2011 while maintaining the fact that the Review Petition stands dismissed. Accordingly, this Appeal is allowed to the limited extent of setting aside the direction to pay costs in R.P. No. 505 of 2011.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/- A.M.SHAFFIQUE,
JUDGE

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P.S.tojudge