

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WA.No. 1137 of 2013 () IN WP(C).11995/2012

**AGAINST THE ORDER/JUDGMENT IN WP(C) 11995/2012 of HIGH COURT OF KERALA
DATED 10-06-2013**

APPELLANT(S)/PETITIONER:

**P.B.SUGATHA KUMAR
SUBEENA KRA 73, BANK ROAD, ANAYARA P.O
THIRUVANANTHAPURAM**

**BY ADVS.SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.NAVEEN.T
SMT.POOJA SURENDRAN
SRI.S.RAMESH**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695001**
- 2. THE REGISTRAR OF KHADI AND VILLAGE
INDUSTRIES CO-OPERATIVE SOCIETIES,
KERALA KHADI AND VILLAGE INDUSTRIES BOARD
THIRUVANANTHAPURAM 695001**
- 3. KERALA STATE RURAL WOMEN'S ELECTRONICS INDUSTRIAL
CO-OPERATIVE FEDERATION LTD NO KV IND (1),
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM 695010
REPRESENTED BY ITS MANAGING DIRECTOR**
- 4. K.R. VENUGOPAL,
CONVENOR & MEMBER, COMMITTEE OF ADMINISTRATORS
KERALA STATE RURAL WOMEN'S ELECTRONICS INDUSTRIAL
CO-OPERATIVE FEDERATION LTD NO KV IND (1)
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM 695010**

5. JOSE PAUL.T
MEMBER, COMMITTEE OF ADMINISTRATORS
KERALA STATE RURAL WOMEN'S ELECTRONICS INDUSTRIAL
CO-OPERATIVE FEDERATION LTD NO KV IND (1)
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM 695010

6. V. RAJU,
MEMBER, COMMITTEE OF ADMINISTRATORS
KERALA STATE RURAL WOMEN'S ELECTRONICS INDUSTRIAL
CO-OPERATIVE FEDERATION LTD NO KV IND (1)
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM 695010

7. DR. RAJUMON T. MAVUNKAL,
MANAGING DIRECTOR
KERALA STATE RURAL WOMEN'S ELECTRONICS INDUSTRIAL
CO-OPERATIVE FEDERATION LTD NO KV IND (1)
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM 695010

*ADDL.R8. K.RAJAN PILLAI,
MEENAKSHI, HOUSE NO.209,
SREEKRISHNA NAGAR, ASRAMAM PO,
KOLLAM 691002.

(*ADDITIONAL R8 IMPEADED AS PER ORDER DATED 26.9.13 IN IA NO.729/13 IN WA NO.1137/13)

R3-R7 & R8 BY ADV. SRI.R.SATISH KUMAR
R2 BY ADV. SRI.TOM K.THOMAS, SC KERALA KHADI & VILLAGE
INDUSTRIES BOARD
R1 BY ADV. SR GOVERNMENT PLEADER SRI.D.SOMASUNDARAN
BY SRI. MILLU DANDAPANI
BY SRI.PRAVEEN K. JOY
R2 BY SRI.R.S.HARI KUMAR ,SC,

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA NO.1137/13

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE A1: TRUE COPY OF THE ORDER GO (RT)
NO.1115/2013/ID DATED 2.9.13 ISSUED BY THE GOVERNMENT.

EXTS. OF R1

ANNEXURE R1(a): TRUE COPY OF THE ORDER DATED
9.9.2013.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 1137 of 2013
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Dated this the 6th day of February, 2015

J U D G M E N T

Antony Dominic, J.

This appeal is filed by the petitioner in WP(C) No.11995/2012. By Ext.P1 Government Order dated 3/8/2004, the appellant was appointed as Managing Director of the 3rd respondent Federation. Subsequently, by Ext.P8 Government Order dated 2/11/2004, the appointment of the appellant was confirmed by the Government. While he was continuing in the post of Managing Director, Government issued Ext.P5 order dated 30/3/2012 according sanction for the deputation of the 7th respondent as Managing Director of the Federation replacing the appellant. However, no orders terminating the appointment of the appellant was issued. It was in the above background, the appellant filed the writ petition seeking to quash Ext.P5 and P6 consequential order.

2. By judgment dated 10/6/2013, the learned Judge disposed of the writ petition along with other connected matters. In this judgment, the learned single Judge found fault with the Government for having replaced the appellant with the 7th respondent without

issuing any order terminating his appointment. But however, thereafter the learned single Judge directed the Government to issue a formal order terminating the service of the appellant with effect from the date of Ext.P5. Government was also directed to consider Ext.P12 representation filed by him. It is this judgment which is under challenge before us.

3. The contention raised by the learned senior counsel appearing for the appellant is that once the learned single Judge has accepted his case that his relief from service was illegal for want of an order terminating the appointment, learned single Judge ought to have granted him consequential benefit by directing that he shall be reinstated back as Managing Director of the 3rd respondent Federation. Therefore, according to him, the learned single Judge erred in ordering the Government to issue a formal order terminating the service of the appellant with effect from the date of Ext.P5. In support of this contention, learned senior counsel placed reliance on the principles laid down by the Apex Court in the judgment in ***Hari Bansh Lal v. Sahodar Prasad Mahto and Others*** [(2010) 9 SCC 655].

4. We heard the learned counsel for the respondents also.

5. Learned special Government Pleader brought to our attention that even before the judgment was rendered by the learned single Judge, the service of the 7th respondent was dispensed with by cancelling his deputation to the 3rd respondent Federation. Learned Government Pleader also submitted that in pursuance of the directions in the judgment, Government have issued GO(Rt) No.1152/13/ID dated 9/9/13 terminating the service of the appellant and also ordered settlement of the arrears that were due to him. It is also stated that an enquiry was conducted into the eligibility of the 7th respondent to be deputed as Managing Director of the Federation and that on conclusion thereof, the Government have issued order No.1172/13/ID dated 12/9/13 holding that the 7th respondent was unqualified to be deputed. Further, it is also reported that though Sri.Santhosh Kumar A., was appointed as the Managing Director of the 3rd respondent, by GO (Rt) No.617/2014/ID dated 9/6/14, he could not assume charge in view of the interim order of status quo ordered by this Court.

6. In so far as this writ appeal is concerned, the only question that needs resolution is whether the learned single Judge

was justified in declining consequential relief to the appellant following his finding that in the absence of an order terminating service, Government could not have replaced the appellant by deputing the 7th respondent. In our view, this contention of the learned senior counsel for the appellant deserves to be accepted. Once the Court has found the action of the Government illegal, the Court is also bound to remedy the grievance of the litigant by passing consequential orders.

7. In so far as this case is concerned, as rightly found by the learned single Judge, the 7th respondent was deputed to the post of Managing Director, which post was occupied by the appellant, without even issuing an order terminating the service of the appellant. Now it is conceded by the Government itself that the 7th respondent was unqualified to be deputed. When that illegality is established, the appellant was entitled to have been reinstated in service. Therefore, we agree with the appellant that the learned single Judge should have ordered the reinstatement of the appellant

8. In such circumstances, we dispose of this appeal directing that, as a consequence of the findings of the learned

single Judge, the appellant will stand reinstated as Managing Director of the 3rd respondent Federation. It is clarified that despite the prospective reinstatement ordered by us, it would still be open to the Government to decide as to whether the appellant should be continued in the post of the Managing Director of the 3rd respondent or not.

9. It is made clear that as a consequence of this judgment, the appellant will not be entitled to any monetary benefit for the period he was kept out till he is reinstated in pursuance of this judgment.

Appeal is disposed of with the above directions.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge