

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WA.No. 737 of 2015 () IN WP(C).10743/2010

AGAINST THE ORDER/JUDGMENT IN WP(C) 10743/2010 of HIGH COURT OF KERALA
DATED

APPELLANT(S)/PETITIONER:

P.V.DEVASSY,
CLERK(UNDER COMPULSORY RETIREMENT)
MAR AGUSTINE'S HIGH SCHOOL
THURAVOOR-683572. RESIDING AT PANIKULANGARA HOUSE
THURAVOOR.P.O., ANGAMALY. PIN-683572.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT(S)/RESPONDENTS:

1. SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. THE DIRECTOR OF PUBLIC INSTITUTIONS,
THIRUVANANTHAPURAM-695014.
3. THE DEPUTY DIRECTOR OF EDUCATION
KAKKANAD.P.O, KOCHI-682030.
4. THE DISTRICT EDUCATIONAL OFFICER
ALUVA-68350.
5. THE MANAGER, MAR AUGUSTINE'S HIGH SCHOOL,
THURAVOOR-683572, ANGAMALY.

R1 TO R4 BY SR GOVERNMENT PLEADER SRI.M.A.FAYAZ
R5 BY ADV.SRI.V.M.KURIAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.No.737 of 2015

Dated this the 22nd day of July, 2015

JUDGMENT

Antony Dominic, J.

1.Appellant was a Lower Division Clerk in the school, of which, the 5th respondent is the Manager. Based on certain allegations of misconduct, he was placed under suspension and was finally imposed punishment of compulsory retirement. The whole proceedings were set aside by this Court and in Exts.P4 and P7 judgments, it was ordered that a fresh enquiry should be conducted. Accordingly, an enquiry was conducted and Ext.P8 is the enquiry report. In this report, it was found that charge Nos.1, 2, 3 and 6 were proved against the appellant. Accordingly, punishment of compulsory retirement was imposed. The appeal filed before the Deputy Director was rejected by Ext.P13. It is in these circumstances that the appellant filed the writ petition.

2.By the judgment under appeal, though the learned single Judge confirmed the findings of guilt against the appellant, Ext.P13 order imposing the punishment

of compulsory retirement was set aside and the third respondent was directed to reconsider the question regarding punishment. It is this judgment which is under challenge.

3. When the appeal was taken up, counsel for the appellant informed us that in compliance with the order of the learned single Judge, the matter was reconsidered by the third respondent and orders were issued, again imposing punishment of compulsory retirement. It is stated that the said order has been challenged in W.P(C).28001/14 which is pending. Counsel contended that the findings of the enquiry officer in Ext.P8 report on charges 1, 2, 3 and 6 are perverse and that therefore, no action could have been taken against the appellant relying on the enquiry report.

4. We have considered the submissions made. This contention now raised by the counsel for the appellant can be answered only in the light of the contents of Ext.P8 enquiry report. Reading of the report shows that the finding of guilt arrived at

against the appellant is based on the materials that were available before the enquiry officer and are consistent with the evidence on record. If that be so, these findings on factual issues being not perverse can only be sustained, particularly in a proceedings under Article 226 of the Constitution of India. In such a situation, we are unable to find fault with the learned single Judge in having declined to interfere with the findings contained in the enquiry report. We, therefore, do not find any reason to interfere with the judgment under appeal.

Appeal fails and is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

k kb.

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PS TO JUDGE