

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WA.No. 2287 of 2015 () IN WP(C).11445/2015

**-----
AGAINST THE ORDER/JUDGMENT IN WP(C) 11445/2015 of HIGH COURT OF KERALA
DATED 05-08-2015**

APPELLANT(S)/PETITIONER:

**-----
K.V. RAJAGOPALAN, AGED 63 YEARS,
S/O.LATE K.S.VENKITASUBRAMANIA IYER,
RESIDING AT KINATTINKARA HOUSE, PAYINGATTERY VILLAGE,
POST NALLURNADU, MANANTHAVADY, WAYANAD - 670 645.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN**

RESPONDENT(S)/RESPONDENTS:

-
- 1. THE COFFEE BOARD,
REPRESENTED BY ITS CHAIRMAN,
NO.1, DR.AMBEDKAR VEEDHI,
BANGALORE - 560 001.**
 - 2. THE SECRETARY,
COFFEE BOARD, NO.1, DR.AMBEDKAR VEEDHI,
BANGALORE - 560 001.**
 - 3. DEPUTY SECRETARY (VIGILANCE),
COFFEE BOARD, NO.1, DR.AMBEDKAR VEEDHI,
BANGALORE - 560 001.**
 - 4. THE DEPUTY DIRECTOR (EXTENSION),
COFFEE BOARD, KALPETTA, WAYANAD -673 121.**

R BY SRI.M.GOPIKRISHNAN NAMBIAR

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

**THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.**

W.A.No.2287 of 2015

Dated this the 27th day of October, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned counsel for the appellant and the learned counsel appearing for the respondents.
- 2.The crux of the dispute in this appeal revolves around proper appreciation of Rule 9(2)(b) of Central Civil Service (Pension) Rules, 1974.
- 3.The appellant retired from the service of the Coffee Board on 31.1.2012. Therefore, any departmental proceedings can be instituted against him only following the contents of the afore-noted Rule 9(2)(b) of CCS (Pension) Rules. The said provision is to the effect that no departmental proceedings shall be instituted against a Government servant who has retired from

service, save with the sanction of the President. There is a time limit prescribed in respect of the institution of such proceedings with reference to the event which is the foundation of the proposed proceedings. Clause (iii) of Rule (9) (2) (b) provides that the departmental proceedings, if sanctioned by the President shall be conducted by such authority and in such place as the President may direct. These provisions indicate that the departmental proceedings cannot be instituted without obtaining sanction of the President and there is no question of departmental proceedings being carried by the erstwhile employer; Coffee Board in the case in hand; unless that Board or any particular officer of that Board is the authority directed to conduct that enquiry, in the decision of the President.

4. The appellant stands to say that the Coffee Board had attempted an enquiry by issuing notices to him. The learned counsel for the Coffee Board says that whatever has been conducted or proposed to be conducted is not a departmental proceedings, but a disciplinary proceedings. It was only a fact finding procedure to consider whether the sanction of the

President is to be sought for and to decide as to whether there is foundation for the Coffee Board to seek the sanction on the basis of the allegations against the appellant. One thing is certain. Rule 9(2) (b) of CCS (Pension) Rules does not postulate departmental enquiry with the involvement of its former employee as if he is a delinquent. However, that Rule does not rule out the principles of natural justice. We say so because, the said Rule does not expressly exclude pre-decisional notice. Therefore, though the Coffee Board had issued notices to the appellant, he cannot be treated as a delinquent and his admission or denial of the contents of the different notices cannot be referred to or made the foundation for seeking the sanction of the President. Under such circumstances, we are of the view that while the Coffee Board may conclude for itself as to whether the sanction of the President is to be sought for on the basis of the allegations against appellant, it is not necessary for the appellant to answer any notices which had been issued to him and he could preserve to himself all his explanations and defences to be raised if and when departmental proceedings are instituted with the sanction of the President. The question of limitation

is also relevant only with reference to the point of time of such institution. Therefore, the plea of limitation raised by the appellant is only to be left open to be raised, if so advised, if and when any departmental proceedings is instituted against him following the sanction, if any, that would be granted by the President.

5. In the light of what we have stated above, all that is necessary is to order the writ appeal clarifying the judgment of the learned single Judge to the aforesaid extent.

Appeal ordered accordingly.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(ANU SIVARAMAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG