

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 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WA.No. 1920 of 2014 () IN WP(C).24380/2014

(AGAINST THE ORDER/JUDGMENT IN WP(C) 24380/2014 of HIGH COURT OF KERALA DATED 26-09-2014)

APPELLANT(S) PETITIONER:

K.SANKARA KRISHNAN,
'GIRIJA MANDIRAM', NEAR POST OFFICE, KANISSERY P.O
PALAKKAD DISTRICT.

BY ADV. SRI.M.RAMESH CHANDER (SR.)

RESPONDENT(S) /RESPONDENT:

1. THE COCHIN DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE COCHIN DEVASWOM BAORD, THRISSUR 680001

2. THE COMMISSIONER,
COCHIN DEVASWOM BOARD, THRISSUR 680001

3. THE ASSISTANT COMMISSIONER,
THIRUVILWAMALA GROUP, COCHIN DEVASWOM BOARD
THIRUVILWAMALA 680588

4. THE REVENUE INSPECTOR,
THIRUVILWAMALA GROUP, COCHIN DEVASWOM BOARD,
THIRUVILWAMALA 680588

R BY ADV.G.RAJAGOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

.....
W.A. No. 1920 of 2014
.....

Dated this the 7th day of January, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard the learned counsel for the appellant.

2. This Writ Appeal has been filed against the judgment dated 26-09-2014 passed in Writ Petition No. 24380 of 2014 by which the petitioner/appellant has challenged the order of dismissal from service passed by the Board after conducting disciplinary enquiry. The learned Single Judge dismissed the Writ Petition. The petitioner who was working as Watcher -cum-Peon was asked to perform the duties of Junior Devaswom Officer. While working in such capacity, certain financial irregularities

were detected. Ext. P4 memo of charges was issued where financial irregularities were quantified as Rs. 80,358/-. Petitioner was asked to answer the charges. Petitioner submitted Ext. P6 as reply to the show cause notice. The said reply has been extracted by the learned Single Judge. Petitioner has admitted the loss caused to the Devaswom. He accepted his liability and remitted the amount. It will be useful to quote the last paragraph of the said reply which is to the following effect:

“All the loss caused to the Devaswom is my liability and I remitted the same to the Devaswom. By excusing the faults committed by me, giving me a humanitarian consideration, I may be given relaxation from the punishment. I assure that I will not repeat these kinds of misdeeds in future and also assure that I shall work with honesty in future”.

3. The Board being not satisfied with the reply has passed the dismissal order which was challenged by the petitioner before the Writ Court. One of the submissions made by the petitioner before the Writ Court was that the punishment is disproportionate to the charges and further that principles of natural justice were

violated. The learned Single Judge meticulously examined both the submissions and held that the principles of natural justice were complied with. Ext. P6 was a clean admission on behalf of the petitioner and hence it cannot be said that there was violation of principles of natural justice. As far as disproportionate punishment, the learned Single Judge was not impressed with the submissions and held that the punishment is not disproportionate.

4. The scope of judicial review of a disciplinary proceeding under Article 226 is very limited. Normally, this Court shall interfere with the punishment order passed after disciplinary enquiry only when there is any malafide or violation of any statutory provision. So far as disproportionate punishment is concerned, it is well established that the court shall interfere with the said ground only when punishment shocks the conscience of the court as has been laid down by the Apex Court in **B.C. Chaturvedi v. Union of India - (1995) 6 SCC 749**. The learned Single Judge has considered all aspects of the matter and we do not

find any such error in the judgment which warrant interference by the appellate Court. Accordingly, this Writ Appeal is dismissed.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/- A.M.SHAFFIQUE,
JUDGE

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/truecopy/

P.S.toJudge