

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 2037 of 2015 (D)

PETITIONER:

**C.P.PADMANABHAN, AGED 56 YEARS
RESIDING AT SREE PADMAM, P.O.KEEZHAL KUTTOTH
(VIA) VADAKARA, KOZHIKODE DISTRICT
(PRESENTLY WORKING AS CONSTABLE IN RPF AT PALAKKAD
AND ON LEAVE ON MEDICAL GROUNDS
STAFF NO.41---SR-8301694, P.S/T E/PGT)**

**BY ADVS.SRI.C.VATHSALAN
SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V**

RESPONDENTS:

- 1. THE GENERAL MANAGER
SOUTHERN RAILWAY
HEAD QUARTERS OFFICE, P.O. PARK TOWN, CHENNAI
TAMILNADU, PIN:600 003.**
- 2. THE DIVISIONAL SECURITY COMMISSIONER
RAILWAY PROTECTION FORCE SOUTHERN RAILWAY
PALAKKAD DIVISIONAL OFFICE, PALAKKAD, PIN:678 009.**
- 3. THE ASSISTANT SECURITY COMMISSIONER
RAILWAY PROTECTION FORCE, SOUTHERN RAILWAY
PALAKKAD DIVISIONAL OFFICE, PALAKKAD, PIN:678 009.**
- 4. CHIEF MEDICAL DIRECTOR
RAILWAY HOSPITAL PERAMBUR, CHENNAI, PIN:600 001.**

**BY ADV. SRI.V.K.MOHAMMED YOUSUF,SC,RAILWAYS
BY SRI.C.S.DIAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 - COPY OF THE TREATMENT SUMMARY RECORDS OF THE PETITIONER
- EXHIBIT P2 - COPY OF THE ERECORDS OF THE PETITIONER DATED 03.04.2012.
- EXHIBIT P3 - COPY OF THE RECORDS OF THE PETITIONER DATED 15.06.2012.
- EXHIBIT P4 - COPY OF THE REPRESENTATION DATED 20.04.2013 BEFORE THE 2ND RESPONDENT.
- EXHIBIT P5 - COPY OF THE REPRESENTATION DATED 05.10.2013 BEFORE THE 2ND RESPONDENT.
- EXHIBIT P6 - COPY OF THE REPRESENTATION DATED 30.04.2014 BEFORE IST RESPONDENT.
- EXHIBIT P7 - COPY OF THE LETTER DATED 11.08.2014 BY 2ND RESPONDENT.
- EXHIBIT P8 - COPY OF THE REPLY DATED 05.09.2014 BY PETITIONER ALONG WITH LEAVE APPLICATION.
- EXHIBIT P9 - COPY OF THE REPRESENTATION DATED 15.09.2014 BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT P10 - COPY OF THE JUDGMENT DATED 18.08.2014 IN WPC NO.19372/2014.
- EXHIBIT P11 - COPY OF THE MEMORANDUM OF CHARGE SHEET ALONG WITH PROCEEDINGS OF THE ENQUIRY OFFICER WITH REPRESENTATION BY PETITIONER.
- EXHIBIT P12 - COPY OF THE PROCEEDINGS DATED 19.12.2014 BY THE IST RESPONDENT WITH COVERING LETTER.
- EXHIBIT P13 - COPY OF THE LETTER DATED 08.09.2015 BY THE 2ND RESPONDENT.
- EXHIBIT P14 - COPY OF THE LETTER DATED 07.10.2015 BY THE 2ND RESPONDENT.
- EXHIBIT P15 - COPY OF THE INTIMATION FROM SENIOR DPO PALAKKAD DATED 29.10.2015.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.2037 of 2015-D

Dated this the 1st day of December, 2015.

JUDGMENT

The petitioner in the above writ petition is aggrieved with the enquiry proceedings initiated against the petitioner for unauthorised absence and Ext.P12 order, which refused the petitioner discharge from service on medical grounds and sanction of monthly pension and pensionary benefits; as a consequence. The petitioner contends that he is mentally unfit and was suffering from mental depression, which alone led to the unauthorised absence. The petitioner also asserts that he had given Ext.P8 leave application in the required format, since the earlier application submitted by him was rejected for the same being not in the proper format. The petitioner also, on the ground of his mental condition, seeks discharge from service.

2. With respect to the enquiry proceeded against the

petitioner, it is an admitted fact that the petitioner was on leave from 16.03.2012 to 29.03.2012 and then later, from 02.07.2013 to 07.12.2013, the latter period having occasioned the Charge-sheet at Ext.P11. It is to be specifically noted that, but for the contention that the petitioner had given an application on 07.12.2013 and that the same had been rejected for reason of it being not in the proper format, there is no copy of the said application produced nor of the order of such rejection. The petitioner merely asserts such leave application having been made, which in any event is after the period of unauthorised absence. The petitioner then seeks to rely on Ext.P8 application, which again is for leave from 08.12.2013 to 07.12.2013 and is dated 01.09.2014. It cannot but be noticed that the same is also grossly delayed.

3. A reading of the Charge-Sheet indicates that despite the petitioner being instructed to report for duty or report to the nearby medical attendant, neither was done. An enquiry is seen to have been initiated, but the same was stayed by this Court as per order dated 20.01.2015. In the meanwhile, the petitioner's

application for discharge from service was considered by Ext.P12 and the same declined.

4. Subsequent to Ext.P12, the petitioner's medical condition as contended by him was examined by the 4th respondent and Ext.P13 was passed declaring him to be medically unfit in 'Bee One' category and fit to be continued in 'Bee Two' category. The petitioner had been thereafter continued in 'Bee One' category as per Ext.P15 and he is said to be working in such category. The petitioner claims that he may be discharged from service on voluntary retirement, for which, he would have to make a fresh application.

5. As to the enquiry proceedings, this Court does not find any reason to interfere with the same, since the Departmental Enquiry initiated by the employer of the petitioner, has to reach its logical conclusion, either way, finding him guilty or exonerating him from the charges.

6. In such circumstance, there shall be a direction to the respondent authority to complete the enquiry, at any rate within a period of three months from the date of receipt of the certified

copy of this judgment. The petitioner shall also co-operate with the enquiry proceedings.

7. As to the voluntary retirement application, even according to the petitioner, such an application has not been given till now. The petitioner would be entitled to make such an application, in which event, the same shall be considered without being influenced by any observation in Ext.P12 order especially since the petitioner has been found to be not medically fit to work in 'Bee One' category and has been downgraded to be continued in a supernumerary post.

With the above observation, the writ petition would stand closed.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

//True Copy//

P.A. to Judge.

sp/01/12/15