

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 3046 of 2015 (E)

PETITIONER :

**T.O.SUNNY, AGED 48 YEARS,
S/O T.P.OUSEPH, RESEARCH ENGINEER,
FLUID CONTROL RESEARCH INSTITE, KANJIKKODE,
RESIDING AT CHIRAYATH NO.48, ULLASNAGAR,
KANJIKODE (WEST), PALAKKAD-678623.**

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENTS :

- 1. CHAIRMAN
FCRI GOVERNING COUNCIL (JOINT SECRETARY
DEPARTMENT OF HEAVY INDUSTRIES), UDYOG BHAVAN,
NES DELHI-100 011.**
 - 2. FLUID CONTROL RESEARCH INSTITUTE,
REPRESENTED BY ITS DIRECTOR, KANJIKODE,
PALAKKAD-678621.**
 - 3. THE DIRECTOR
FLUID CONTROL RESEARCH INSTITUTE, KANJIKODE,
PALAKKAD-678621.**
 - 4. UNION OF INDIA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF HEAVY IHNDUSTRIES, UDYOG BHAVAN
NEW DELHI-100011.**
- R1 TO R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY SRI.M.GOPIKRISHNAN NAMBIAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE APPOINTMENT ORDER DATED 18.10.1994
ISSUED BY THE THIRD RESPONDENT.**

EXHIBIT P1(A): A TRUE COPY OF JOINING REPORT DATED 12.12.1994.

**EXHIBIT P2: A TRUE COPY OF THE DISCHARGE SUMMARY DATED 15.3.2001
ISSUED BY S.H. HOSPITAL, PAYNKULAM.**

**EXHIBIT P2(A): A TRUE COPY FO THE MEDICAL CERTIFICATE DATED 8.3.2013 ISSUED
BY S.H. HOSPITAL, PAYNKULAM.**

**EXHIBIT P3: A TRUE COPY OF THE PRESCRIPTION DATED 10.11.2014 ISSUED BY
DR.RAMANI, COIMBATORE.**

**EXHIBIT P4: A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 2.12.2014
ISSUED BY DR.RAMANI, COIMBATORE.**

**EXHIBIT P5: A TRUE COPY OF THE OFFICE ORDER DATED 14.11.2014 ISSUED BY
THIRD RESPONDENT.**

**EXHIBIT P6: A TRUE COPY OF EXPLANATION SUBMITTED BY THE PETITIONER
DATED 22.11.2014 TO THIRD RESPONDENT.**

**EXHIBIT P7: A TRUE COPY OF CHARGE SHEET DATED 17.1.2015 ISSUED BY THE
THIRD RESPONDENT.**

**EXHIBIT P8: A TRUE COPY OF THE EXPLANATION DATED 24.1.2015 SUBMITTED BY
THE PETITIONER.**

EXHIBIT P9: COPY OF THE ORDER NO.FCRI/P&A/TOS/2015/5736 DT 2/2/2015.

**EXHIBIT P10: COPY OF JOINING REPORT DT 12/12/1994 SUBMITTED BY THE
PETITIONER TO THE THIRD RESPOND A TRUE COPY OF THE ORDER
NO. NO.FCRI/P&A/TOS/2015/5735 DT 2/2/2015 IS ENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.3046 of 2015

Dated this the 13th day of February, 2015

JUDGMENT

The petitioner approached this Court seeking a relief to permit him to continue in the service by the respondents. The petitioner submits that he had certain psychological disorder and he was suffering from Paranoid Schizophrenia and considering the same, no disciplinary proceedings shall be initiated against the petitioner. The petitioner claims that he is suffering some minor mental illness within the meaning of Section 2(i)(viii) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. Pending the writ petition, the petitioner has been served with Ext.P9 order placing under suspension. It is mentioned in the above proceedings that a domestic enquiry

is initiated against the petitioner.

3. The circumstances warranting suspension is a matter to be assessed by the employer, this Court cannot interfere with the order of suspension unless if so warranted, when such suspension order is palpably wrong and patently illegal. However, the petitioner has a case that he is having serious mental illness and he has recovered from the same. The learned counsel for the petitioner submits that if the petitioner has given an opportunity to rejoin the establishment, he will be able to prove himself that he is a most disciplined employee of the organisation.

4. Considering the fervent plea made by the learned counsel for the petitioner, I am of the view that the Director shall advert to the above aspects and consider whether the petitioner can be reinstated to the service by taking note of any illness claimed to have been suffered by him. No doubt, when a mental illness is attributed, necessarily, leniency must

be shown to such personnel. However, these are all matters to be considered by the employer themselves before proceeding further. Under Section 45 of Part-III of the Mental Health Act, 1987, Procedure is prescribed to grant leave of absence. Therefore, if the petitioner is able to comply with Part-III Procedure of the Mental Health Act, certainly the employer need to reconsider the whole matter with a view to rehabilitate the petitioner. Keeping the above aspect in mind, necessary decision shall be taken by the Director in this matter within a period of ten days from the date of receipt of a copy of this judgment.

With the above observation, this writ petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE