

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 5708 of 2014 (K)

PETITIONER:

P.S. SATYAN, AGED 55 YEARS
PANTHIYAKALATHIL HOUSE,
PANAMBUKADU, VALLARPADAM P.O.
ERNAKULAM DISTRICT. (EX-CONDUCTOR
KERALA STATE ROAD TRANSPORT CORPORATION
ANGAMALY DEPOT).

BY ADVS. SRI. K. P. JUSTINE (KARIPAT)
SRI. K. KRILIKUMAR

RESPONDENTS:

1. THE MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT P.O., THIRUVANANTHAPURAM-23.
2. KERALA STATE ROAD TRANSPORT CORPORATION
APPELLATE TRIBUNAL AT THIRUVANANTHAPURAM.
3. THE EXECUTIVE DIRECTOR (VIGILANCE)
THE KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT P.O., THIRUVANANTHAPURAM-23.
4. THE EXECUTIVE DIRECTOR (ADMINISTRATION)
THE KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT P.O., THIRUVANANTHAPURAM-23.
5. THE ASSISTANT TRANSPORT OFFICER
KERALA STATE ROAD TRANSPORT CORPORATION,
ANGAMALY 683 573.

BY SRI. BABU JOSEPH KURUVATHAZHA, SC, KSRTC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE CHARGE SHEET ISSUED BY THE 3RD RESPONDENT AGAINST THE PETITIONER DATED 12.4.2001.
- EXHIBIT P2 : TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 30.5.2001.
- EXHIBIT P3 : TRUE COPY OF THE ENQUIRY REPORT SUBMITTED BY THE ENQUIRY OFFICER DATED 9.5.2003.
- EXHIBIT P3(a) : TRUE COPY OF THE SHOW CAUSE NOTICE NO.VLD3-001196/01 DATED 26.7.2013 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF ORDER NO.VLD3-001196/2001 DATED 25.8.2008 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF THE SHOW CAUSE NOTICE NO.ALP-22270/08 DATED 4.2.2009 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P6 : TRUE COPY OF THE EXPLANATION DATED 3.3.2009 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF THE ORDER NO.DIS.22270/08/APL DATED 31.3.2009 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P8 : TRUE COPY OF JUDGMENT IN WP(C) 14559/2011 DATED 15.11.2012 OF THIS HONOURABLE COURT.
- EXHIBIT P9 : TRUE COPY OF THE ORDER OF THE APPELLATE TRIBUNAL (2ND RESPONDENT) VIDE NO.RP.14/210 DATED 5.10.2013.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 20th day of March, 2015

JUDGMENT

Disciplinary proceedings were initiated against the petitioner for misbehaviour in service as Conductor in the Kerala State Road Transport Corporation. The third respondent by Ext.P4 order barred the increment of the petitioner for three years with cumulative effect and the period under suspension was regularised as eligible leave. The punishment so imposed was challenged by the petitioner in an appeal before the first respondent. It may at once be noticed that the Kerala State Road Transport Corporation did not file any appeal seeking enhancement of punishment on the petitioner.

2. The first respondent has however by Ext.P7 order enhanced the punishment compulsorily retiring the petitioner from service with immediate effect. The period of suspension was also treated as eligible leave as was done by the third respondent in Ext.P4 order. The petitioner challenged Ext.P7 order in revision before the tribunal which rendered Ext.P9

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order. Ext.P7 order has been affirmed in Ext.P9 order and the same is impugned in this writ petition.

3. It is bewildering as to how a punishment imposed on the petitioner could be enhanced in an appeal filed by him to the higher authority. This is especially so when no appeal was filed at the instance of the Kerala State Road Transport Corporation. There is no case for the Kerala State Road Transport Corporation that a notice to show cause against enhancement of punishment was however served on the petitioner. There is no averment to that effect in the counter affidavit filed by the Kerala State Road Transport Corporation nor any show cause notice produced. The appellate authority and the revisional authority should have at best confirmed the original order of punishment or annulled the same if there was valid and just grounds.

4. I have no hesitation in my mind to hold that Exts.P7 and P9 orders are vitiated by errors of law apparent on the face of the record. Exts.P7 and P9 orders are quashed and Ext.P4 order is restored. Resultantly the punishment imposed on the petitioner can only be barring increment for three years with

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cumulative effect and also treating the period of suspension as eligible leave. The petitioner shall be treated to have retired from service on 30.09.2014 on which date he attained the age of superannuation. The respondents are directed to disburse the monitory benefits due to the petitioner accordingly within two months.

The Writ Petition is disposed of. No costs.

**V. CHITAMBARESH
JUDGE**

ncd