

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

W.P.(C).No.16524 of 2005 (P)

PETITIONER(S):-

C.S.SAJI, OFFICE ASSISTANT,
CENTRE FOR HERITAGE STUDIES, TRIPUNITHURA,
ERNAKULAM DIST.,
W/O. T.K. ANANTHAKRISHNAN NAIR, AGED 41 YEARS,
KRISHNAKRIPA HOUSE, THRIKKARIYOOR P.O.,
ERNAKULAM DIST., PIN-686 692.

BY ADV.SRI.K.RAMAKUMAR (SENIOR ADVOCATE)

RESPONDENT(S):-

1. STATE OF KERALA,
REP. BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
TRIVANDRUM.
2. THE SECRETARY, CULTURAL AFFAIRS DEPARTMENT (B),
GOVERNMENT SECRETARIAT, TRIVANDRUM.
3. THE REGISTRAR, CENTRE FOR HERITAGE STUDIES,
TRIPUNITHURA, ERNAKULAM DISTRICT.

R1 & R2 BY GOVERNMENT PLEADER SRI.S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.16524 OF 2005-P

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 TRUE COPY OF THE ORDER NO.2662/B1/05/CAD
 DATED 18.5.03 ISSUED FROM 2ND RESPONDENT TO
 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

----- NIL.

Vku/- [true copy]

K.Vinod Chandran, J.

W.P.(C).No.16524 of 2005-P

Dated this the 20th day of October, 2015.

JUDGMENT

This writ petition is of the year 2005 and according to this Court, does not project any sustainable case, but for the fact that on the basis of an interim order the petitioner had been continued for 10 years. The petitioner was appointed as a temporary hand on 16.02.2003 in the post of Office Assistant/Clerk. The petitioner's services were terminated by Exhibit P1 dated 18.05.2003. Admittedly the petitioner was not appointed to a regular post; nor was there a sanction for the said post. The petitioner admittedly was also appointed only to a temporary post. The termination as at Exhibit P1 could not at all be assailed, since the respondent-State has terminated the services of the petitioner without casting any stigma, by Exhibit P1. However, as noticed above, the petitioner had been continuously engaged for 10 years on the basis of an interim order.

2. It is also to be noticed that in the year 2008, an interim order was passed on 27.06.2008 that if no counter affidavit

is filed within two weeks, it will be deemed that the respondents have no objection in allowing the writ petition. No counter affidavit was filed within the time granted. This Court had, in fact, allowed the writ petition by judgment dated 25.07.2008. After that, a review was filed, which was entertained and a counter also placed on record. Even then, the writ petition remained before this Court for the last seven years without the Government attempting to vacate the interim order. The interim order passed on 02.06.2005 was to the effect that the respondents shall allow the petitioner to continue in service as Office Assistant under the 3rd respondent, provided she has not been actually relieved from the post as per Exhibit P1.

3. In such circumstances, if the petitioner has been continued as such for the last 10 years on the basis of the interim order, then necessarily the petitioner's regularisation shall be considered. To direct such consideration, sufficient reliance can be garnered from the various documents produced herein, which purportedly regularised similarly placed persons. The petitioner, hence, if continuing in service and has been paid salaries for all these years, shall file a representation before the 3rd respondent

pointing out the specific instance of regularisation before the 3rd respondent. The 3rd respondent shall forward the same to the 2nd respondent, who shall afford an opportunity of hearing and dispose of the same within a period of three months from the date of receipt of the representation forwarded by the 3rd respondent. It is made clear that the regularisation if made, shall only be prospective and it is also indicated that if the petitioner had been continued all these years on the basis of the interim orders, then necessarily there should be a favourable consideration.

The writ petition is disposed of with the above directions.

Sd/-

K.Vinod Chandran,
Judge

vku.

[true copy]