

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 9038 of 2014 (D)

PETITIONER:

**BABURAJ R., AGED 51 YEARS
S/O.RAVEENDRAN NAIR, ASSISTANT SELECTION GRADE
KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM
R/A.'SINDHU BHAVAN', PAPPALA, KILLIMANOOR
THIRUVANATHAPURAM**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS:

- 1. THE KERALA STATE ROAD TRANSPORT CORPORATION
REP BY ITS CHAIRMAN AND MANAGING DIRECTOR
TRANSPORT BHAVAN, FORT P O, THIRUVANANTHAPURAM-695023**
- 2. THE CHAIRMAN AND MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, FORT P O, THIRUVANANTHAPURAM-695023**
- 3. THE EXECUTIVE DIRECTOR(VIGILANCE)
KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BAHVAN, FORT P O, THIRUVANANTHAPURAM-695023**

BY SRI.BABU JOSEPH KURUVATHAZHA, SC, KSRTC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.07.2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE ORDER NO D'DIS-2519/2012/APL OF THE 2ND RESPONDENT DTD 26/3/2012**
- P2:- TRUE COPY OF THE CHARGE SHEET ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
- P3:- TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER ON 12/1/2010**
- P4:- TRUE COPY OF THE REPORT OF THE ASSISTANT TRANSPORT OFFICER VIDE NO E-606/2009/KTPA**
- P5:- TRUE COPY OF THE ENQUIRY REPORT DTD 7/8/2010 ISSUED BY THE 2ND RESPONDENT**
- P6:- TRUE COPY OF THE SHOWCAUSE NOTICE WAS ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT DTD 23/10/2009**
- P7:- TRUE COPY OF THE REPLY DTD 19/11/2009 SUBMITTED BY THE PETITIONER TO EXT P6**
- P8:- TRUE COPY OF THE ORDER VIDE ORDER NO VLA1014215/2009 DTD 14/3/2011**
- P9:- TRUE COPY OF THE ORDER NO D'DIS 2520/2012/APL DTD 26/3/2012 BY THE 2ND RESPONDENT**
- P10:- TRUE COPY OF THE ORDER OF THE TRIBUNAL IN R P NO 3/2012**

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 9038 OF 2014

Dated this the 13th day of July, 2015

JUDGMENT

The disciplinary authority (by Ext. P8 order), the appellate authority (by Ext. P9 order) and the revisional authority (by Ext. P10 order) have concurrently found that the petitioner is guilty of the charges levelled against him. It has been uniformly found that the petitioner was on unauthorised absence from duty for different spells during the period from 20.01.2004 to 23.10.2007. The parties are at variance as to whether the petitioner had filed leave applications in the requisite proforma with the proper authority for the different spells. It is however conceded that leave had not been sanctioned by the competent authority for the period during which the petitioner was found unauthorisedly absent from duty.

2. The bar of increment for six months originally directed by the disciplinary authority by Ext. P8 order has been modified to a temporary bar for three months by the

appellate authority by Ext. P9 order. The period from 20.01.2004 to 23.10.2007 covered by medical certificates have been directed to be treated as eligible leave and the remaining spells in that period (not supported by the medical certificates) have been directed to be treated as leave without allowance. A very lenient view has been adopted by authorities in imposing punishment as above which does not warrant any interference in this writ jurisdiction. The mere statement of the enquiry officer in Ext. P5 report that the petitioner was under treatment during the period he was unauthorisedly absent does not advance his case. Treatment for alleged rheumatic complaint can be of different varieties and there is nothing on record to show that the petitioner was either treated as an in-patient or advised to take complete rest.

3. The petitioner relied on **Krushnakant B. Parmar v. Union of India and Another [(2012) 3 SCC 178]**. That was a case where the employee was refused permission to sign the attendance register. The period of unauthorised absence was also for short spells. Even then the Supreme Court directed the reinstatement with 50% back wages only. The said decision has no relevance in the instant case. The

procedure warranted for imposing a minor penalty has been well followed in the instant case.

4. The disciplinary authority, the appellant authority and the revisional authority have considered the relevant inputs and have found that the petitioner is guilty of the misdemeanor alleged warranting the imposition of minor penalty.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS