

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 13176 of 2011 (V)

PETITIONER(S):

**P.M.VASUDEVAN,S/O.LATE K.MADHAVAN NAIR,
SUPERINTENDENT (UNDER SUSPENSION),
SREE MANGOTTUKAVU DEVASWOM, ATHIPOTTA,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.MATHEWS RAJU**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO REVENUE (DEVASWOM) DEPARTMENT,
STATE SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE COMMISSIONER, MALABAR DEVASWOM BOARD,
ERANJIPALAM, KOZHIKODE-673 001.**
- 3. THE DEPUTY COMMISSIONER, MALABAR DEVASWOM
BOARD, ERANJIPALAM, KOZHIKODE-673 001.**
- 4. THE EXECUTIVE OFFICER,SREE MANGOTTUKAVU,
DEVASWOM, ATHIPOTTA, PALAKKAD-678 544.**
- 5. THE ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT, VIGILANCE DEPARTMENT, STATE SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**R1 & R5 BY GOVERNMENT PLEADER SRI.SOJAN JAMES
R2 & R3 BY ADVS. SRI.R.LAKSHMI NARAYANAN, SC
SRI.V.KRISHNA MENON, SC
R4 BY ADV. SRI.MOHAN C.MENON**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 13176 of 2011 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF THE ORDER OF SUSPENSION ISSUED BY THE FOURTH RESPONDENT DTD.13.6.2010.**
- EXT.P2: TRUE COPY OF THE JUDGMENT IN WP(C) NO.23276/2010 ON THE FILE OF THIS HONOURABLE COURT DTD.26.7.2010.**
- EXT.P3: TRUE COPY OF THE WRITTEN STATEMENT SUBMITTED BY THE PETITIONER DTD.22.7.2010.**
- EXT.P4; TRUE COPY OF THE ORDER PASSED BY THE SECOND RESPONDENT DTD.25.6.2010.**
- EXT.P5: TRUE COPY OF THE COMMON JUDGMENT IN WP(C) NO.30470/2008 AND CONNECTED CASES DATED 11.3.2011.**
- EXT.P6: TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DTD.23.3.2011.**
- EXT.P7: TRUE COPY OF THE JUDGMENT IN WP(C) NO.24117/2008 ON THE FILE OF THIS HONOURABLE COURT DTD.5.11.2008.**
- EXT.P8: TRUE COPY OF THE JUDGMENT IN WP(C)NO.34084/2007 ON THE FILE OF THIS HONOURABLE COURT DTD.6.9.2011.**
- EXT.P9: TRUE COPY OF THE FINAL REPORT DTD.10.9.2012.**
- EXT.P10: TRUE COPY OF THE LETTER DTD.17.10.2012.**

RESPONDENT(S)' EXHIBITS:

- ANNEXURE A: TRUE COPY OF THE ORDER NO.W1-1851/12 DTD.13.3.2013.**
- ANNEXURE B: TRUE COPY OF THE ORDER NO.H5-460/2012/M.D.B (K.DIS) DTD.31.8.2013.**
- ANNEXURE R2(a): TRUE COPY OF THE JUDGMENT IN WP(C) 15047/2010 DTD.18.5.2010.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

C.K.ABDUL REHIM,J.

WP(C).NO. 13176 of 2011

Dated this the 19th day of March, 2015

JUDGMENT

While the petitioner was working as Superintendent in one of the temples under the 'Malabar Devaswom Board' he was suspended from service through Ext.P1 proceedings of the 4th respondent. He was implicated in a vigilance case along with certain other employees of the Devaswom Board on the allegation that they had taken illegal gratification for filling up of temporary posts in the Temple. This writ petition was filed on the premise that, despite lapse of considerable period and despite repeated requests made by the petitioner, the order of suspension was not revoked. It is revealed that subsequently, during pendency of this writ petition, the Vigilance enquiry initiated against the petitioner and others were dropped and those employees of the Board who were suspended along with the petitioner were reinstated. Under such circumstances, when the writ petition came up for consideration on 9.4.2012, this

court passed an interim order observing that the petitioner has been under suspension from 13.6.2010 onwards and since he is due to retire on 30.4.2012, he should be reinstated forthwith. It is conceded by learned counsel for the petitioner that pursuant to the above said interim order the petitioner was reinstated into service and he was retired with effect from 30.4.2012. In view of the above mentioned circumstances, the relief sought for in this writ petition no more survives for consideration.

2. Learned counsel for the petitioner made an appeal to this court to direct the 4th respondent to make payment of salary due for the period during which he had continued under suspension. Learned Standing Counsel appearing for the 4th respondent submitted that decision regarding regularisation of the service for the period of suspension, is a matter which need to be decided by the 2nd respondent, in view of the fact that the petitioner was suspended based on instructions issued by the 2nd respondent . It is also submitted that all terminal benefits due to the petitioner as well as subsistence allowance for the period of suspension have already been paid.

3. Considering the factual aspects as enumerated above,

this court is of the opinion that interest of justice would be achieved if a direction is issued to the 2nd respondent to take an appropriate decision with respect to declaration of eligibility of the petitioner for payment of salary for the period during which he was continuing under suspension. A decision in this regard shall be taken by the 2nd respondent at the earliest, if necessary after affording an opportunity of personal hearing to the petitioner as well as the 4th respondent. At any rate, a final decision in this regard shall be taken within a period of two months from the date of receipt of a copy of this judgment.

4. Needless to observe that if a decision favourable to the petitioner is taken in this regard by the 2nd respondent, the 4th respondent shall implement the same and the consequential benefits shall be paid to him without any further delay.

The writ petition is disposed of as above.

C.K.ABDUL REHIM, JUDGE

Pmn/

