

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C) . No.16682 of 2012 (I)

PETITIONER(S) :

K.V.SETHUKUMARI,
AGED 42 YEARS, W/O.A.R. MOHAN, SENIOR ASSISTANT,
KERALA STATE ROAD TRANSPORT CORPORATION,
SULTHAN BATHERY,
WAYANAD. (RESIDING AT SHEEN ROSE APARTMENT
NEAR KSRTC BUS STAND, SULTHAN BATHERY, WAYANAD)

BY ADV. SRI.ASOK M.CHERIAN

RESPONDENT(S) :

1. KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.
2. THE EXECUTIVE DIRECTOR (ADMINISTRATION) ,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.
3. THE DISTRICT TRANSPORT OFFICER
KERALA STATE ROAD TRANSPORT CORPORATION,
SULTHAN BATHERY DEPOT, WAYANAD - 673 592.
4. ASSISTANT DISTRICT TRANSPORT OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
SULTHAN BATHERY DEPOT, WAYANAD -673 592.

BY ADV. SRI.GOPI KRISHNAN NAMBIAR
BY SRI.JOY GEORGE, SC, K.S.R.T.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

P1:- COPY OF THE MEMORANDUM DATED 19/03/2010 OF THE 2ND RESPONDENT WITH TRANSLATION.

P2:- COPY OF THE ORDER NO.VLD 3-01181/2010 DATED 23-10-2010.

P3:- RELEVANT EXTRACT OF ENQUIRY REPORT DATED 11.1.2010 WITH TRANSLATION.

P4:- COPY OF THE MEMORANDUM NO.PL1/132/2010 DATED 2-6-2010 WITH TRANSLATION.

P5:- COPY OF THE MEMORANDUM NO.PL1/132/2010 DATED 1-10-2010 WITH TRANSLATION.

P6:- COPY OF THE RELEVANT EXTRACT OF ENQUIRY REPORT DATED 17-8-2010 WITH TRUE TRANSLATION.

P7:- COPY OF THE REPRESENTATION DATED 30-08-2011 BEFORE THE 1ST RESPONDENT WITH TRANSLATION.

P8:- COPY OF THE MEMORANDUM NO.PL.1/036191/11 DATED 26-11-2011 WITH TRANSLATION.

RESPONDENT'S EXHIBITS:-NIL

/True Copy/

P.A to Judge

KRJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16682 of 2012

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Dated this the 15th day of January, 2015

JUDGMENT

Ext.P8 by which Ext.P7 representation filed by the petitioner was rejected is under challenge in this writ petition.

2. The petitioner is working as Senior Assistant under the respondent corporation at Sulthan Bathery Depot at Wayanad district. While she was working as Selection Grade Assistant under the 3rd respondent, she was transferred to Thamarassery unit as per Ext.P1 on the allegation of misbehaviour by her and three other incumbents of the said office.

3. As per Ext.P3 report, it was recommended to dis-engage the petitioner from the Kalpetta depot. Thereafter the petitioner preferred an application before the first respondent requesting to review Ext.P1 order of transfer and accordingly, as per Ext.P4 order, Ext.P1 was modified and the petitioner was posted to Kalpetta. Later, the petitioner preferred another representation before the Minister for Transport to review Exts.P1

and P4 order and to permit her to continue in the office of the 3rd respondent. Ext.P5 is the memorandum. Later on re-enquiry, it was revealed that the allegation against the petitioner and others were not true. Ext.P6 is the re-enquiry report.

4. The petitioner further alleges that as per Ext.P6 report, the petitioner was ordered to be retained at Sulthan Bathery. Though the petitioner was transferred as per Ext.P1 order, she did not join duty and she was out of service from 1.4.2010 to 1.10.2010 resulting in service break of 184 days. The petitioner alleges that the said break was not due to the fault of her and the said period has to be treated as period on duty. Though she filed Ext.P7 representation for that purpose, the same was rejected by Ext.P8. It is with this background, the petitioner has come up before this Court.

5. No counter affidavit has been filed by the respondents.

6. Arguments have been heard.

7. The petitioner alleges that her transfer from Sulthan Batheri to Thamarassery as per Ext.P1 was on a false complaint. According to her, as the transfer caused inconvenience to her, she did not join duty and

thus, there was a break of service for a period of 184 days from 1.4.2010 to 1.10.2010. It is true that ultimately the petitioner was not found guilty. That does not mean that the petitioner who was transferred as per Ext.P1 order could keep away from duty. In fact, her absence from duty from 1.4.2010 to 1.10.2010 was unauthorised.

8. It is made clear in Ext.P8 that the petitioner was transferred due to administrative reasons and there was no order restraining her from attending the duty and absence from duty 184 days could not be justified. Therefore, there is absolutely no reason to interfere with the impugned order.

In the result, the writ petition fails and accordingly, it is dismissed.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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