

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 12936 of 2015 (N)

PETITIONER(S) :

SATHEESH CHANDRAN S.,
AGED 57 YEARS, S/O.K.SUBRAMANYA PILLAI,
RESIDING AT F.401, BLOCK NO.2,
EASLAND ENCLAVE APARTMENTS, ELAMKULAM KADAVANTHRA P.O.,
KOCHI-20, PRESENTLY WORKING AS ASSISTANT MANANGER,
VAIKKOM DEPOT,
KERALA STATE CIVIL SUPPLIES CORPORATION.

BY ADVS.SRI.D.NARENDRANATH
SRI.M.HARISHARMA.

RESPONDENT(S) :

1. KERALA STATE CIVIL SUPPLIES CORPORATION LTD.,
MAVELI BHAVAN, GANDHI NAGAR, KADAVANTHRA P.O.,
KOCHI-20, REPRESENTED BY MANANGING DIRECTOR.
2. MANAGING DIRECTOR,
KSCSC LTD, MAVELI BHAVAN, GANDHI NAGAR,
KADAVANTHRA P.O., KOCHI - 20.
3. ADDITIONAL GENERAL MANAGER(P&A),
KSCSC LTD, MAVELI BHAVAN, GANDHI NAGAR,
KADAVANTHRA P.O., KOCHI-20
4. MANAGER (ADMINISTRATION),
KSCSC LTD, MAVELI BHAVAN, GANDHI NAGAR,
KADAVANTHRA P.O., KOCHI-20

BY SMT.MOLLY JACOB, SC, SUPPLYCO.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE ORDER DATED 22.1.2008 ISSUED BY THE 2ND RESPONDENT HAVING NUMBER D 22/18796/2007.
- EXHIBIT P2: TRUE COPY OF ORDER DATED 22.9.2010 HAVING NO. D 22-5404-2010 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE INFORMATION SOUGHT DATED 4.3.2013 ON APPLICATION NO.1/13 FROM THE CIVIL SUPPLIES CORPORATION AND THE REPLY DATED 5.4.2013.
- EXHIBIT P4: TRUE COPY OF THE TRANSFER ORDER DATED 5.11.2012 HAVING NO.D 10-04/2011 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5: TRUE COPY OF THE SHOW CAUSE NOTICE DATED 2.5.2013 HAVING NO.D 22-9339-2013 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P6: SANCTION ORDER OF THE ASSISTANT MANAGER (DISC) DATED 28.6.2013 HAVING NUMBER D 22.9339.2013.
- EXHIBIT P7: LETTER DATED 4.7.2013 BY THE ASSISTANT MANAGER (DISCIPLINARY) HAVING NUMBER D 22-9339-2013.
- EXHIBIT P8: REPLY TO EXHIBIT P5 NOTICE ON 24.7.2013, SUBMITTED BY THE PETITIONER.
- EXHIBIT P9: ORDER DATED 19.6.2013 HAVING NO,. D 22/9339/2013 INITIATING DOMESTIC ENQUIRY AGAINST THE PETITIONER.
- EXHIBIT P10: ORDER DATED 14.8.2013 ISSUED BY THE MANAGER (ADMINISTRATION) HAVING NO,. D 22/9339/2013.
- EXHIBIT P11 AND P12: TRUE COPIES OF ORDER DATED 18.10.2013 AND 27.11.2013 ISSUED BY THE MANAGER(ADMINISTRATION) HAVING NO. D 22/9339/2013.
- EXHIBIT P13: TRUE COPY OF THE NOTICE ISSUED BY THE DOMESTIC ENQUIRY OFFICER DATED 4.12.2013 HAVING NO.D.E. 2013-1.
- EXHIBIT P14: LETTER ISSUED BY THE DOMESTIC ENQUIRY OFFICER DATED 16.12.2013.

- EXHIBIT P15: TRUE COPY OF THE REPORT SUBMITTED BY THE VIGILENCE & ANTI CORRUPTION BUREAU DATED 21.5.2013 HAVING NO. VE.03/2012 CRE.
- EXHIBIT P16: TRUE COPIES OF THE INTERNAL COMMUNICATIONS OBTAINED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.
- EXHIBIT P17: TRUE COPY OF THE REPORT HAVING NO.VIG 640/2012 DATED 21.5.2014 SUBMITTED BY THE VIGILENCE OFFICER.
- EXHIBIT P18: TRUE COPY OF THE PROCEEDING DATED 31.7.2014 OF THE 2ND RESPONDENT.
- EXHIBIT P19: TRUE COPIES OF THE INTERNAL PROCEEDINGS DATED 19.8.2014 AND REMINDER DATED 1.11.2014 OF THE 1ST RESPONDENT.
- EXHIBIT P20: TRUE COPY OF THE CHARGE SHEET DATED 29.11.2014 HAVING NO.D 22-9339-2013 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P21: TRUE COPY OF THE LETTER DATED 8.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P22: TRUE COPY OF THE LETTER DATED 13.1.2015 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT P23: TRUE COPY OF THE LETTER DATED 16.1.2015 ISSUED BY THE ADDITIONAL GEN MANAGER (PAND A) OF THE FIRST RESPONDENT HAVING NO.D 22-9339-2013.
- EXHIBIT P24: TRUE COPY OF THE REPLY DATED 22.1.2015 SUBMITTED BY THE PETITIONER TO EXHIBIT P23.
- EXHIBIT P25: TRUE COPY OF THE NOTICE ISSUED BY THE MANAGER (ADMINISTRATION) OF THE FIRST RESPONDENT HAVING NO.D 22-9339-2013 TO THE PETITIONER.
- EXHIBIT P26: TRUE COPY OF THE ORDER DATED 20.3.2015 HAVING NO.D 22-9339-2013 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P27: TRUE COPY OF THE POSTAL COVER IN WHICH EXHIBIT P26 WAS SENT TO THE PETITIONER.
- EXHIBIT P28: TRUE COPY OF THE LAWYER NOTICE DATED 19.4.2013 ISSUED BY THE STANDING COUNSEL OF THE FIRST RESPONDENT.

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EXHIBIT P29: TRUE COPY OF THE COMMUNICATION ISSUED BY THE ASST.
MANAGER (MIS) TO THE 2ND RESPONDENT DATED 4.5.2014.

EXHIBIT P30: TRUE COPY OF NOTICE DATED 18.4.2015, ISSUED BY THE
ENAUERY OFFICER.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 12936 of 2015

Dated this the 4th day of June, 2015

JUDGMENT

The petitioner is an employee of the 1st respondent Corporation. The challenge in the writ petition is against Exts.P20 Memo of charges, and P26 order of the respondent Corporation appointing an enquiry officer, in connection with a disciplinary enquiry, that is contemplated against the petitioner. The challenge in the writ petition against the aforesaid memo and order of appointment is premised on the contention that there was already an enquiry, that was conducted against the petitioner in connection with the same allegations, and the Vigilance Officer attached to the respondent Corporation had, by Ext.P17 report, found the complaint against the petitioner to be baseless and had not recommended taking of any further proceedings against the petitioner. It would appear that, pursuant to Ext.P17, the 2nd respondent, in Ext.P18 proceedings, felt that a show cause notice should be issued to the petitioner in connection with the recovery of amounts that represented interest for the alleged temporary misappropriation occasioned by the petitioner. Acting on the said directions of the 2nd respondent, Ext.P20 show cause memo, together with a memo of charges, was issued to the petitioner followed by Ext.P26 order, whereby an enquiry officer was

appointed in connection with the enquiry contemplated against the petitioner. The contention of the petitioner in the writ petition is that, the initiation of disciplinary proceedings against the petitioner through the issuance of Ext.P20 memo of charges amounts to double jeopardy inasmuch as the petitioner had already undergone an enquiry, in connection with the complaint that was filed before the Vigilance Officer, and hence, subjecting him to another enquiry in respect of the same set of allegations was not legal and proper.

2. A statement has been filed on behalf of the respondent, wherein it is pointed out that, the proceedings before the Vigilance Officer of the Corporation had nothing to do with the disciplinary proceedings now initiated against the petitioner pursuant to Ext.P20 memo of charges. It is pointed out that the Vigilance Officer had enquired into a complaint, that was submitted by a third person and, even if the Vigilance Officer had found that the case of the complainant had not been established as against the petitioner, that was no reason to insulate the petitioner from disciplinary proceedings, that could be initiated against him by the respondent Corporation.

3. I have heard the learned counsel appearing for the petitioner and also the learned Standing Counsel appearing on behalf of the respondent Corporation.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the contention of the petitioner, that the initiation of the disciplinary proceedings against him through the issuance of Ext.P20 memo charges and Ext.P26 order, whereby an enquiry officer has been appointed in connection with the disciplinary proceedings against the petitioner, amounts to a re-initiation of concluded proceedings against him, cannot be legally countenanced. The proceedings before the Vigilance Officer was based on a complaint received by the Vigilance Officer from a third person, and the findings of the Vigilance Officer in favour of the petitioner, if any, cannot be relied upon by the petitioner for the purposes of insulating himself from a disciplinary proceedings, that can be initiated against him, in accordance with law, by the employer, namely the respondent Corporation. Thus, I find that there is nothing illegal in the initiation of disciplinary proceedings against the petitioner by the issuance of Ext.P20 Memo of charges and by the appointment of an enquiry officer through Ext.P26 order of the 2nd respondent. On

a query put to the Standing Counsel for the respondent Corporation as to the time the Corporation would require to complete the disciplinary proceedings against the petitioner, it is submitted by the Standing Counsel that, if the petitioner co-operates with the enquiry, then the proceedings can be completed within an outer time limit of four months from the date of receipt of a copy of this judgment. Accordingly, recording the submission of the learned Standing Counsel for the respondent Corporation that the disciplinary proceedings initiated against the petitioner will be completed within a period of four months from the date of receipt of a copy of this judgment, I dispose the writ petition by rejecting the challenge of the petitioner against Exts.P20 and P26 and directing the respondents to complete the enquiry initiated against the petitioner by the said orders, within a period of four months from the date of receipt of a copy of this judgment. I make it clear that the directions in this judgment will be subject to the petitioner co-operating with the respondents in the disciplinary proceedings, that has been initiated against him.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE