

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 16598 of 2014 (Y)

PETITIONER :

**LONAN JOSEPH, S/O. JOSEPH,
PULIMOOTTIL HOUSE, PANAYAPPILLY
KOCHI 2.**

**BY ADVS.SRI.ABRAHAM P.GEORGE
SRI.K.VINODKUMAR (707/89)
SMT.M.SANTHY**

RESPONDENTS :

**1. CORPORATION OF COCHIN
REPRESENTED BY ITS SECRETARY,
CORPORATION BUILDINGS,
ERNAKULAM, KOCHI 11.**

**2. THE HEALTH OFFICER,
CORPORATION OF COCHIN,
CORPORATION BUILDINGS,
ERNAKULAM, KOCHI 11.**

**3. THE DIRECTOR OF LOCAL SELF
GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM.**

**R1 & R2 BY ADV. SRI.K.P.JUSTINE(KARIPAT)SC,
BY SRI.P.K.SOYUZ,SC,
R3 BY GOVERNMENT PLEADER SRI. P.M. SANEER**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE CORPORATION DATED 9-7-2009.
- P2: TRUE PHOTOCOPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH COURT IN WPC NO. 54123/2011 DATED 7-2-12.
- P3: TRUE PHOTOCOPY OF THE ORDER PASSED BY THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS DATED 27-3-2014 IN OP NO. 802/2010.
- P4: TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE CORPORATION DATED 11-6-2014.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.M.SHAFFIQUE, J

W.P.C.No.16598 of 2014

Dated this the 9th day of October 2015

J U D G M E N T

Petitioner has approached this Court seeking the following reliefs:

“a) Issue a writ in the nature of mandamus or such other appropriate writ or direction commanding the 1st respondent Corporation to implement the directions given by the Hon'ble Ombudsman for Local Self Government Institutions as per Exhibit-P3 order - place the matter before the Council of Corporation, hear the petitioner and to dispose the same in accordance with law within a period of time as fixed by this Hon'ble Court in the interest of justice.”

2. The facts involved in the writ petition would disclose that the petitioner was working as contingent worker under the 1st respondent Corporation in Health Department. He was in service for a period of seven years. Thereafter, he was removed from service on 23/09/2000. He remained absent from service since 01/01/1989. Petitioner's grievance is that he was suffering from severe ailments and that he was unable to attend duty. He submitted certain representations which were ultimately directed

to be considered. However, since no action has been taken by the Corporation to re-instate him in service, this writ petition is filed.

3. Counter affidavit is filed by respondents 1 and 2 inter alia stating that the petitioner was on unauthorised absence with effect from 01/01/1989 and thereafter dismissal proceedings were taken and he was dismissed from service on 23/09/2000. Petitioner later approached the Ombudsman for Local Self Government Institutions and there was a direction to take a decision in the matter after hearing the parties. The Council of Corporation, after considering the representation, decided not to reinstate the petitioner and it was informed to the petitioner as well. Thereafter, he filed W.P.C.No.34123/2011 and by judgment dated 07/02/2012, the said decision was upheld.

4. The facts being so, since the petitioner's claim had already been considered by the Council, I do not think that this Court will be justified in issuing any further direction. Petitioner has not ventilated a legal right to claim employment in the Corporation of Cochin. He had already been dismissed from service after conducting proper enquiry. Under such

circumstances, in the absence of any challenge to such enquiry proceedings, this Court cannot direct the Corporation to re-instate the petitioner in service. There is no merit in the contentions urged on behalf of the petitioner. Accordingly, this writ petition is dismissed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

