

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No.20496 of 2012 (J)

PETITIONER:

**K.RAJENDRAN PILLAI,S/O.NANU PILLAI,AGED 55 YEARS,
NO.812320213(HEAD CONSTABLE/GD),CISF UNIT,
KKNPP KUDANKULAM,R/A.THADATHIVILA THEKKETHIL HOUSE,
VADAKKUMTHALA EAST P.O.,KARUNAGAPALLY,
KOLLAM-690536,KERALA**

BY ADV.SRI.B.N.SHIVSANKAR

RESPONDENTS:

- 1. COMMANDANT,CISF,CISF UNIT,KKN PP KUDANKULAM,PIN-627756.**
- 2. SENIOR COMMANDANT,CISF UNIT DAE KALPAKKAM,
KANCHEEPURAM DISTRICT,PIN-603102.**
- 3. THE DIRECTOR GENERAL,CISF HEAD QUARTERS,
BLOCK NO.13,CGO'S COMPLEX,
LODHI ROAD,NEEW DELHI-110003.**

**R1 TO R3 BY SRI.T.SANJAY, CGC
BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 5.2.2015 THE COURT ON 17-03-2015, DELIVERED THE FOLLOWING:**

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W.P(C) NO.20496/2012

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE ORDER OF RETIREMENT DATED 23.11.2011.

EXT.P2:TRUE COPY OF THE APPLICATION DATED 5.3.2012.

EXT.P3:TRUE COPY OF THE ORDER OF THE HONOURABLE HIGH COURT IN
WRIT PETITION NO.9948/2012 DATED 20.4.2012.

EXT.P4:TRUE COPY OF THE ORDER OF DEPUTY INSPECTOR GENERAL
DATED 25.7.2012.

RESPONDENT'S EXHIBITS:

EXT.R1(a):TRUE COPY OF THE PARTICULARS SHOWING THE PUNISHMENTS
AWARDED TO THE PETITIONER.

EXT.R1(b):TRUE COPY OF THE LETTER DATED 28.4.2011.

EXT.R1(c):TRUE COPY OF THE E.MAIL MESSAGE DATED 9.4.2012.

EXT.R1(d):TRUE COPY OF THE LETTER DATED 17.4.2012.

EXT.R1(e):TRUE COPY OF THE CONFIDENTIAL REPORT AND PUNISHMENT
DETAILS OF R.KENNEDY.

EXT.R1(f):TRUE COPY OF THE CONFIDENTIAL REPORT AND PUNISHMENT
DETAILS OF M.RAJAMANI.

EXT.R1(g):TRUE COPY OF THE CONFIDENTIAL REPORT AND PUNISHMENT
DETAILS OF K.SSANLARA RAJU.

EXT.R1(h):TRUE COPY OF THE LETTER DATED 30.12.2011.

EXT.R1(i):TRUE COPY OF THE LETTER DATED 2.7.2012.

EXT.R1(j):TRUE COPY OF THE ANNUAL CONFIDENTIAL REPORT LADY
CONSTABLE ROSAMMA.

EXT.R1(k):TRUE COPY OF ACKNOWLEDGMENT DATED 7.12.2011.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.20496 of 2012**  
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Dated this the 17th day of March, 2015

J U D G M E N T

This writ petition is filed challenging Ext.P4 order declining petitioner to continue upto the age of 60 years in the service of the Central Industrial Security Force (for short, "CISF"). The petitioner was appointed in CISF on 07/12/1981 as Security Guard (re-designated as Constable). His date of birth is 09/10/1957. Under Rule 56(j) of Fundamental Rules, review of the .case of government servant is required to be done by a superannuation review committee, to find out fitness to retain the government servant in service beyond the age of 55 years or completing 30 year of qualifying service, whichever is earlier. The petitioner completed 30 years qualifying service on

06/12/2011. His case was reviewed by the committee. It was found that the petitioner is unfit to continue in the service beyond 30 years of qualifying service in public interest. It is this decision under challenge before this court. The petitioner, if permitted by the committee, would be entitled to continue upto the age of 60 years. Based on the decision of the review committee, the petitioner was ordered to retire on completion of 30 years by Ext.P1. The petitioner, as per Ext.P2 made a request to reinstate him in the service. Thereafter, he approached this Court with W.P.(C).No.9948/2012. This Court by judgement in Ext.P3 directed the establishment to consider his request. Thereafter, Ext.P4 order has been passed. In para.3 of Ext.P4 certain indisciplined activities attributed against the petitioner is narrated. It is for this reason, the petitioner is found unfit for further further service. The petitioner's case is that several others on whom similar punishment has been imposed are permitted to continue in the service and the

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establishment adopted discriminatory approach in the matter of the petitioner. I have gone through details of indiscipline attributed against the petitioner in Ext.P4, which are as follows:

“(a) Found sleeping on duty in the year 1985, 1986 and 1996.

(b) Violated the orders of superiors in the year 1992.

(c) Misbehaved with the seniors in the year 2000.

(d) Allowed MPG Goa employee to go outside by detaining the materials in the year 2008.

(e) Used filthy language to Mahila Constable in the year 2009.”

2. The judicial review is directed against decision making process and not against the decision itself. The establishment, after adverting to the indiscipline on the part of petitioner came to a conclusion that he is unfit to continue beyond 30 years. The discretion is exercised based on valid reasons. The right of an employee to continue in the service is based upon personal performance, it is not

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depend on relative merit with other personnel. Therefore, the petitioner cannot claim, as a matter of right that since others are having been permitted, he shall also be considered for extension. This argument is misconceived and untenable. The discipline is one of the prerequisite in continuation of service in force in which the petitioner was engaged. This Court, by invoking power under Article 226 of the Constitution cannot interfere with the decision of the establishment exercised on valid reasons. Accordingly, the writ petition is dismissed. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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