

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 29733 of 2004 (M)

PETITIONER:

**DR.C.F. FRANCY,
LECTURER, SELECTION GRADE, ST. THOMAS COLLEGE
THRISSUR.**

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

- 1. THE MANAGER,
ST. THOMAS COLLEGE, THRISSUR.**
- 2. THE PRINCIPAL,
ST. THOMAS COLLEGE, THRISSUR.**
- 3. THE CALICUT UNIVERSITY APPELLATE
TRIBUNAL, THIRUVANANTHAPURAM.**
- 4. FR. ANTONY PORATHUR,
VICAR, ST. THOMAS CHURCH, VILLOM
RAMAVARMAPURAM P.O., PIN-680 631. (DELETED)**

**(THE NAME OF THE 4TH RESPONDENT DELETED FROM THE
PARTY ARRAY AS PER ORDER DT. 22/8/11 IN I.A NO.
13647/11 IN WP(C) 29733/04)**

R1 & R2 BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1: TRUE COPY OF NEWSPAPER REPORT WHICH APPEARED IN DEEPIKA, DESHABHIMANI, MATHRUBOOMI AND KERALA KAUMUDI DATED 31.7.2001
- P2: TRUE COPY OF MEMO DATED 9.1.2002 OF THE DY.DIRECTOR OF COLLEGIATE EDUCATION
- P3: TRUE COPY STATE DATED 23.01.2002 SUBMITTED BY THE PETITIONER BEFORE THE DY.DIRECTOR OF COLLEGIATE EDUCATION
- P4: TRUE COPY OF PROCEEDINGS OF THE SYNDICATE MEETING OF THE CALICUT UNIVERSITY HELD ON 29.8.2002
- P5: TRUE COPY OF SELF APPRAISAL REPORT OF THE PETITIONER FOR GRANT OF SELECTION GRADE, CARRYING THE ENDORSEMENT OF THE PRINCIPAL
- P6: TRUE COPY OF LEAVE APPLICATION DATED 2.6.2003 SUBMITTED BY THE PETITIONER
- P7: TRUE COPY OF LETTER DATED 12.6.2003 FROM THE 2ND RESPONDENT TO THE PETITIONER
- P8: TRUE COPY OF LEAVE APPLICATION DATED 13.6.2003 SUBMITTED BY THE PETITIONER
- P9: TRUE COPY OF MEDICAL CERTIFICATE DATED 3.6.2003 ISSUED BY THE CIVIL SURGEON, TALUK HOSPITAL, VADAKKANCHERY IN THE PETITIONER'S FAVOUR
- P10: TRUE COPY OF LETTER DATED 16.6.2003 FROM THE 2ND RESONDENT TO THE PETITIONER
- P11: TRUE COPY OF CHARGE MEMO DATED 5.7.2003 ISSUED BY THE 1ST RESPONDENT AGAINST THE PETITIONER
- P12: TRUE COPY OF REPLY DATED 28.7.2003 FROM THE petitioner TO THE 1ST RESONDENT
- P13: TRUE COPY OF LETTER DATED 15.10.2003 FROM THE 1ST RESPONDENT
- P14: TRUE COPY OF APPEAL MEMORANDUM DATED 5.12.2003 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT
- P15: TRUE COPY OF JOINT COUNTER AFFIDAVIT DATED 3.3.2004 SUBMITTED BY RESPONDENTS 1 AND 2 BEFORE THE 3RD RESPONDENT
- P16: TRUE COPY OF LEAVE APPLICATION DATED 2.6.2003 PRODUCED BY ESPONDENTS 1 AND 2 BEFORE THE 3RD RESPONDENT

- P17: TRUE COPY OF LETTER DATED 27.1.2004 FROM THE HEAD OF THE DEPARTMENT, DEPARTMENT OF ZOOLOGY TO THE 2ND RESPONDENT
- P18: TRUE COPY OF STATEMENT DATED 3.6.2003 OF THE U D CLERK, ST. THOMAS COLLEGE, PRODUCED BY THE 1ST AND 2ND RESPONDENTS BEFORE THE 3RD RESPONDENT
- P19: TRUE COPY OF ATTENDANCE REGISTER OF M.SC. ZOOLOGY, II SEMESTER STUDENTS FOR THE MONTH MAY 2003
- P20: TRUE COPY OF JUDGMENT DATED 23.7.2004 OF 3RD RESPONDENT IN APPEAL NO.8/2003

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 29733 of 2004 (M)

Dated this the 16th day of December, 2015

J U D G M E N T

The petitioner herein challenges Exts.P13 and P20 orders. Ext.P-13 impose a punishment of barring of one increment for one year cumulatively and Ext-P-20 affirms the same in an appeal before the Tribunal.

2. The short facts to be looked into are that the petitioner, who was a Lecturer (Selection Grade) in the 2nd respondent's college, had applied for leave from 3.6.2003 to 31.7.2003. The application was submitted on 2.6.2003 and the same disclosed 'personal affairs' as the cause for such application. The petitioner, even without a sanction from the Principal, stopped attending the College from the very next day onwards. The Principal having found it difficult to adjust the

classes, on 12.06.2003, informed the petitioner that the leave sought for was not sanctioned and asked him to resume duty.

3. The petitioner then preferred an application for commuted leave from 3.6.2003 to 20.6.2003 supported by a medical certificate. The medical leave sought was retrospectively from 3.6.2003 and the same was received on 16.6.2003 by the Manager. The petitioner's action insofar as seeking leave on personal grounds and then converting it to medical leave was found to be offensive, especially since the petitioner, in his subsequent application dated 13.6.2003, sought for a medical leave from 3.6.2003. Evidently, on the petitioner's leave application being rejected, the petitioner had obtained medical certificate and sought for leave on the basis of that certificate, again from the very same day.

4. The Manager granted the leave from 16.6.2003 to 20.6.2003, but, however, initiated proceedings by issuing a show cause notice, calling for the explanation of the petitioner as to why the petitioner shall not be proceeded against for defying the Principal and the Manager, by not rejoining duty, when the leave was rejected and was directed to rejoin duty; and then making a further application for leave on medical grounds. The failure to perform the assigned academic duties was found to be an improper conduct on the part of the petitioner. The petitioner's explanations were called for, which did not offer any valid reason, but, only contended that though the leave was applied on personal grounds, he later fell sick.

5. The petitioner's explanations were considered and by Ext.P13 he was imposed with the punishment of penalty of stoppage of one increment for a period of

one year in the present scale of pay with cumulative effect; though the penalty proposed was barring of three increments with cumulative effect.

6. It is trite that this Court would not look into the facts to arrive at a different finding from that arrived at by the disciplinary authority unless the same is based on no evidence or on totally extraneous reasons. This Court would also not interfere with the punishment, which is the discretion of the disciplinary authority, unless ofcourse found to be grossly excessive, when compared with the gravity of the misconduct alleged and proved.

7. In the present case, it is to be noticed that the petitioner was a Selection Grade Lecturer assigned with the duty of teaching Post Graduate classes and he had merely, after submitting an application for leave for about a month, absented himself from duty from the

very next day. Even when the leave application was rejected, the petitioner refused to rejoin duty. True, the leave application was rejected after about ten days, but that should not have stopped him from rejoining duty. The petitioner's further application, based on a medical certificate, to again seek medical leave with retrospective effect from 3.6.2003, is also objectionable. The conduct of the petitioner definitely is not above board and this Court does not find any reason to interfere with the penalty imposed.

8. This Court could only look at the procedural aspects and the same having been complied with, nothing remains to be done. The petitioner in the appeal before the Tribunal had a contention that the punishment imposed was a major penalty and the same could have been imposed only after a detailed disciplinary enquiry is conducted. A reading of Ext.P20

order of the Appellate Tribunal would indicate that at the time of argument the said contention was not pursued. In such circumstance, no procedural irregularity having been raised even in the above writ petition, this Court does not find any reason to either interfere with the orders at Exts. P13 and P20 or interfere with the punishment imposed.

The writ petition would stand dismissed without costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE