

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C).No. 17053 of 2015 (F)

PETITIONER(S):

**R.SIVARAJAN CHETTIAR AGED 53 YEARS
U.D.CLERK (UNDER DISMISSAL)
KERALA KHADI AND VILLAGE INDUSTRIES BOARD
VANCHIYOOR, THIRUVANANTHAPURAM-695 035
RESIDING AT DEVIKRIPIA, CHEMPAKAMANGALAM, KORANI PO
TRIVANDRUM-695 104.**

BY ADV. SRI.S.JAMES VINCENT

RESPONDENT(S):

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD,
VANCHIYOOR, TRIVANDRUM-695 035
REPRESENTED BY ITS SECRETARY.**
- 3. SUB INSPECTOR OF POLICE, VANCHIYOOR,
TRIVANDRUM-695 035.**

**R1 & R3 BY SRI M.J. RAJASREE, SR. GOVERNMENT PLEADER
R2 BY SRI.TOM K.THOMAS, STANDING COUNSEL, KHADI & VILLAGE
INDUSTRIES BOARD**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF ORDER NO.KB9370/10A.5(II) DATED 1-6-2011 ISSUED BY THE 2ND RESPONDENT BOARD.

P2 : TRUE COPY OF MEMO OF CHARGES NO.KB 3614/11/E4 DATED 17-1-2013 WITH THE STATEMENT OF ALLEGATIONS.

P3 : TRUE COPY OF PETITION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT ON 11-2-2013.

P4 : TRUE COPY OF COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT ON 22-3-2014 IN WPC.NO.6908/2013, WITH A COPY OF THE PRELIMINARY ENQUIRY REPORT.

P5 : TRUE COPY OF JUDGMENT OF THIS HON'BLE COURT DATED 30-1-2015 IN WPC.NO.6908/2013.

P6 : TRUE COPY OF NOTICE NO.KB-3614/11/E4 DATED 16-3-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P7 : TRUE COPY OF LETTER NO.KB-3614/11/E4 DATED 24-3-2015 ENCLOSING COPY OF THE PROCEEDINGS DT 19-2-2015.

P8 : TRUE COPY OF LETTER NO.KB-3614/11/E4 DATED 28-3-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P9 : TRUE COPY OF PETITION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT ON 30-3-2015.

P10 : TRUE COPY OF LIST OF WITNESSES FILED ON 2-4-2015.

P11 : TRUE COPY OF APPLICATION DT 22-4-2015 SUBMITTED BY THE PETITIONER TO THE BOARD UNDER THE RIGHT TO INFORMATION ACT.

P12 : TRUE COPY OF NOTES OF ARGUMENT SUBMITTED BY THE PETITIONER ON 27-4-2015.

P13 : TRUE COPY OF PROCEEDINGS NO.KB-3614/11/E4 DATED 13-5-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P14 : TRUE COPY OF REPLY NO.KB-5905/2008/A14/RTI DATED 19-5-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P15 : TRUE COPY OF STATUTORY APPEAL SUBMITTED BY THE PETITIONER TO THE CHAIRMAN OF THE 2ND RESPONDENT ON 25-5-2015.

P16 : TRUE COPY OF UNDATED NOTICE NO.KB/6241/2015/R1 ISSUED BY THE 2ND RESPONDENT WITH THAT OF THE POSTAL ENVELOPE

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

PA. TO JUDGE

ANIL K. NARENDRA, J.

W.P.(C) No.17053 of 2015

Dated this the 11th day of June, 2015

JUDGMENT

The petitioner, who is an orthopedically handicapped person with 50% permanent disability, entered service of the Kerala Khadi and Village Industries Board, the 2nd respondent herein, as Lower Division Clerk on 02.07.1998. While continuing as Lower Division Clerk, disciplinary proceedings were initiated against the petitioner, which ultimately resulted in Ext.P13 order of the 2nd respondent by which he was imposed with a punishment of dismissal from service. Ext.P13 passed by the 2nd respondent is an order appealable under Clauses 17 and 21 of the Kerala Khadi and Village Industries Board Service (Punishment & Appeal) Regulations, 1967. In accordance with the above provision, the petitioner filed Ext.P15 appeal before the appellate authority under Clause 17 of the Kerala Khadi and Village Industries Board Service (Punishment & Appeal) Regulations, 1967. Now, the grievance of the petitioner is that during the pendency of Ext.P15 appeal, the 2nd respondent has

issued Ext.P16 notice against him, demanding a sum of Rs.33,05,935/-. In Ext.P16, there is a threat of revenue recovery proceedings.

2. I heard the arguments of the learned counsel for the petitioner, the learned Government Pleader appearing for respondents 1 and 3 and also the learned Standing Counsel for the 2nd respondent.

3. It is not in dispute that by Ext.P13, the petitioner was imposed with a major punishment of dismissal from service. Going by the Regulations of 1967, Ext.P13 is an appealable order against which the petitioner has moved the appellate authority by Ext.P15 appeal, which is still pending consideration. It is during the pendency of Ext.P15 appeal, the petitioner has been issued with Ext.P16 demand notice.

4. Considering the fact that the statutory appeal filed by the petitioner is pending consideration before the appellate authority, I deem it appropriate to dispose of this writ petition directing the appellate authority in the 2nd respondent Board to consider and pass appropriate orders on Ext.P15 appeal, in accordance with law, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a

certified copy of this judgment, with notice to the petitioner. It would be open to the petitioner to raise additional grounds in writing before the appellate authority, which shall also be dealt with by the appellate authority while passing orders as Ext.P15 appeal.

Since Ext.P15 appeal is pending consideration before the appellate authority, I deem it appropriate to stay all recovery proceedings pursuant to Ext.P16 during the pendency of Ext.P15 appeal.

JV

SD/-
ANIL K. NARENDRAN,
JUDGE