

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 17174 of 2015 (V)

PETITIONER:

**P.O.SUNNY, AGED 55 YEARS
S/O.P.D.OOMMEN, MANAGER, (CIVIL ENGINEERING
STAFF NO.SO90248C), FOOD CORPORATION OF INDIA
DISTRICT OFFICE, KOLLAM. (UNDER SUSPENSION)**

**BY ADVS.SRI.THIRUMALA P.K.MANI
SRI.D. DIPU**

RESPONDENTS:

- 1. AREA MANAGER, FOOD CORPORATION OF INDIA
DISTRICT OFFICE, KOLLAM - 691 001.**
- 2. GENERAL MANAGER (KERALA)
FOOD CORPORATION OF INDIA
REGIONAL OFFICE KESAVADASAPURAM
THIRUVANANTHAPURAM - 695 004.**
- 3. EXECUTIVE DIRECTOR (SOUTH)
FOOD CORPORATION OF INDIA, ZONAL OFFICE, CHENNAI - 6.**

**BY SRI.T.PM.IBRAHIM KHAN, SC, FCI
BY ADV. SRI.K.M.ABDUL MAJEED**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE SUSPENSION ORDER DATED 11/05/2015 ISSUED AGAINST THE PETITIONER BY THE 2ND RESPONDENT.
- EXT.P2 : COPY OF THE REPRESENTATION DATED 20/05/2015 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P3 : COPY OF THE MEMO DATED 21/02/2015 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT.
- EXT.P3(A) : COPY OF THE REPLY DATED 16/03/2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P4 : COPY OF THE REPLY DATED 19/03/2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P5 : COPY OF THE LETTER DATED 31/03/2015 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P6 : COPY OF THE EXPLANATION DATED 23.04.2015 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P7 : COPY OF THE INSPECTION REPORT DATED 25/04/2015 PREPARED BY V.S.NAGAPPAN, ASST. GENERAL MANAGER, CIVIL ENGINEERING.
- EXT.P8 : COPY OF THE LETTER DATED 08/05/2015 ISSUED TO THE MANAGER QUALITY CONTROL, FCI DISTRICT OFFICE KOLLAM BY THE PETITIONER.
- EXT.P9 : COPY OF THE HINDU PAPER REPORT DATED 22.04.2015.
- EXT.P10 : COPY OF THE INSPECTION NOTE DATED 18.02.2015 OF G.M.(KERALA).
- EXT.P11 : COPY OF THE TOUR DIARY FOR 3 MONTHS FEBRUARY, MARCH AND APRIL, 2015.
- ADDL.EXT.P9 : COPY OF THE ORDER DATED 06.07.2015 PASSED BY THE 3RD RESPONDENT.
- ADDL.EXT.P10: COPY OF THE MEMO OF CHARGE ISSUED AGAINST THE PETITIONER.

RESPONDENTS' EXHIBITS:-

- EXT.R1(A) : COPY OF THE ORDER NO.QC24(1)/AGM (QC)/KERALA/2015/ 2015-2016 DATED 08.05.2015 ISSUED BY THE THIRD RESPONDENT.

[CONTD...]

EXT.R1(B) : COPY OF THE LETTER NO.VIG.32(2)/2015/DP(MISC) DATED
02.06.2015 ISSUED BY THE GENERAL MANAGER, FCI, CHENNAI.

EXT.R1(C) : COPY OF THE REPORT OF THE INSPECTION COMMITTEE AT
FSD KOLLAM DATED 21.05.2015.

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.17174 of 2015

Dated this the 27th day of October, 2015.

JUDGMENT

The petitioner was aggrieved with Ext.P1 order when the writ petition was filed and has now challenged Ext.P9 order also. Ext.P1 is a suspension order passed under Regulation 66 of the Food Corporation of India (Staff Regulations, 1971). The said suspension order was passed only in pursuance of a disciplinary action contemplated against the petitioner.

2. Subsequent to that, when the writ petition was pending, the Food Corporation of India [for brevity, FCI] has revoked the suspension order and has directed the petitioner to join duty as District Officer, Alleppey, that too a non-sensitive post. The petitioner challenges the condition imposed in Ext.P9 as punitive and not sanctioned by the regulations. It is also contended that the FCI (Staff Regulations, 1971) provide only for a revocation of suspension and in such circumstance on revocation, the petitioner

has to be restored to his original position.

3. The specific clause relied on by the petitioner is Rule 66 (5)(c), which is extracted hereunder:

"66(5)(c). An order of suspension made or deemed to have been made under this regulation may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate."

4. It is to be emphasised that the Rule does not speak of revocation alone, but also modification. Even when the petitioner was suspended as per Ext.P1, the petitioner was placed under the District Office at Alleppey and he was also directed to remain within the new Headquarter and not to move out of Alleppey without the permission of the General Manager or the Area Manager. The petitioner admittedly was suspended, while he was working at the District Office, Kollam as Manager, Civil Engineering. The allegations levelled against the petitioner was also with respect to an incident, that happened in District Office, Kollam and it has to be presumed that the Disciplinary Authority thought it fit to keep the petitioner away from the station in which the alleged misconduct occurred. Even as per Ext.P1, the

FCI felt that the petitioner should be kept out of the place from where he was suspended, for reason of the pending disciplinary enquiry.

5. The FCI later decided to modify the suspension order by Ext.P9 and revoked it with certain conditions, in so far as the posting of the petitioner to a non-sensitive post in District Office, Alleppey. Considering the fact that the disciplinary proceedings are pending, it cannot be said that the action of the FCI is in any manner punitive, since he has been re-posted to the very same Cadre, but to a non-sensitive post, only for reason of the pending disciplinary proceedings.

In such circumstance, this Court is not inclined to interfere with Ext.P9. The writ petition would stand dismissed. No costs. The disciplinary enquiry shall be expedited and the petitioner is also directed to co-operate with the enquiry.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

//True Copy//

P.A. to Judge.

sp/29/10/15