

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).No. 22192 of 2010 (Y)

PETITIONER(S):

**T.K.GOPALAKRISHNAN,
SENIOR GRADE VESHAM TEACHER, (NOW UNDER ORDERS OF
TERMINATION), UNNAYI WARRIER SMARAKA KALANILAYAM
REG.NO.9/55, UNNAYI WARRIER ROAD, IRINJALAKUDA-680 121,
NOW RESIDING AT THARAYIL HOUSE, MANGANAM PO.
KOTTAYAM – 18.**

BY ADV. SRI.P.M.SEBASTIAN

RESPONDENT(S):

- 1. GENERAL COUNCIL (APPELLETTE AUTHORITY
UNDER RULE XV OF THE EMPLOYEES SERVICE RULES)
UNNAYI WARRIER SMARAKA KALANILAYAM REG.NO.9/55
UNNAYI WARRIER ROAD, IRINJALAKUDA-680 121
REPRESENTED BY ITS SECRETARY.**
- 2. THE MANAGING COMMITTEE OF THE UNNAYI
WARRIER SMARAKA KALANILAYAM, REG.NO.9/55
UNNAYI WARRIER ROAD, IRINJALAKUDA-680 121
REPRESENTED BY ITS PRESIDENT.**
- 3. UNNAYI WARRIER SMARAKA KALANILAYAM
REG.NO.9/55, UNNAYI WARRIER ROAD, IRINJALAKUDA-680
121, REPRESENTED BY ITS SECRETARY.**

R,R1 & 2 BY ADV. SRI.M.P.ASHOK KUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- EXT.P1: THE TRUE COPY OF THE SHOW CAUSE NOTICE DATED 13.2.2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT. P2: THE TRUE COPY OF THE CERTIFICATE DATED 15-11-2002 ISSUED BY THE SERECTARY TO THE PETITIONER.
- EXT. P3: THE TRUE COPY OF THE REPLY DATED 17-2-2003 SUBMITTEDE BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P4: THE TRUE COPY OF THE SHOW CAUSE NOTICE DATED 14-2- 2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT. P5: THE TRUE COPY OF THE REPLY DATED 15-2-2003 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P6: THE TRUE COPY OF THE SHOW CAUSE NOTICE DATED 20-2-2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT. P7: THE TRUE COPY OF THE APPLICATION DATED 24-2-2003 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P8: THE TRUE COPY OF THE CHARGE SHEET DATED 3-7-2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT. P9: THE TRUE COPY OF THE REPLY DATED 19-9-2003 SUBMITTED BY THE PETITIONER BEFORE THE ENQUIRY OFFICER.
- EXT. P10: THE TRUE COPY OF THE ENQUIRY REPORT DATED 25-9-2003 BY THE ENQUIRY OFFICER BEFORE THE 3RD RESPONDENT.
- EXT. P11: THE TRUE COPY OF THE NOTICE DATED 30-10-2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT. P12: THE TRUE COPY OF THE REPLY DATED 12.11.2003 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P13: THE TRUE COPY OF THE DISMISSAL ORDER DATED 8-12-2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

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- EXT. P14: THE TRUE COPY OF THE REPRESENTATION DATED 30-12-2003, SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P15: THE TRUE COPY OF THE JUDGEMENT OF HON'BLE COURT PASSED IN W.P.(C) 1591 OF 2004 DATED 26-11-2007.
- EXT. P16: THE TRUE COPY OF THE APPEAL MEMORANDUM DATED 9-9- 2009 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT. P17: THE TRUE COPY OF THE ORDER DATED 27-5-2010 BY THE 1ST RESPONDENT.
- EXT. P18: THE TRUE COPY OF THE NOTICE DATED 6-5-2010 ISSUED TO THE PETITIONER BY THE RESPONDENT.
- EXT. P19: THE TRUE COPY OF THE BACKSIDE OF THE EXT. P18 NOTICE DATED 11-5-2010.

RESPONDENTS' EXHIBITS :

- EXT.R1(A) COPY OF THE MINUTES DATED 05.12.2003.

/TRUE COPY/

PA. TO JUDGE

SB

K. VINOD CHANDRAN, J.

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Dated this the 22nd day of September, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner's appeal, when considered at Ext.P17 was considered without notice to the petitioner and hence, it is submitted that; it is in gross violation of Ext.P15 judgment. A reading of Ext.P15 judgment would indicate that the petitioner was directed to approach the appellate authority within a period of one month from 26.11.2007, the date of judgment. Admittedly, the petitioner filed an appeal on 09.09.2009 after about two years.

2. The dismissal from service itself was of the year 2003 ordered by Ext.P13 dated 08.12.2003. The petitioner moved a writ petition at the earlier stage in the year 2004 and the same was pending here till 2007, when Ext.P15 judgment was passed. The petitioner ought to have been diligent enough to comply

with the direction in Ext.P15 and there is no point in, now contending that the appeal was disposed of without hearing the petitioner. In any event, no procedural irregularity is pointed out insofar as the order of dismissal. In such circumstance, there is absolutely no ground to grant the reliefs as prayed for by the petitioner. The petitioner has been recalcitrant in prosecuting the case and cannot now be allowed to rake up a dismissal of the years 2003.

The writ petition would stand dismissed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.