

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 31381 of 2004 (J)

PETITIONER :

THE SOUTH INDIAN BANK LTD.,
HEAD OFFICE THRISSUR (REPRESENTED BY ITS
GENERAL MANAGER (ADMINISTRATION)

BY ADVS.SRI.M.PATHROSE MATTHAI (SR.)
SRI.RONY J.PALLATH

RESPONDENTS :

1. INDUSTRIAL TRIBUNAL, PALAKKAD.
2. SMT.VLALITHA, VELLATHINGAL HOUSE,
PURANG P.O., KANHIRAMUKKU, MALAPPURAM DISTRICT.

R2 BY ADVS. SRI.C.ANIL KUMAR
SMT.A.K.PREETHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF LETTER DATED 4/12/2000 BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P2 : COPY OF LETTER DATED 11/12/2000 BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P3 : COPY OF MEMO OF CHARGE DATED 15/4/02 BY THE PETITIONER BEFORE THE 2ND RESPONDENT

EXT.P4 : COPY OF REPLY DATED 24/4/02 BY THE 2ND RESPONDENT BEFORE THE PETITIONER

EXT.P5 : COPY OF LETTER DATED 6/9/02 BY THE ENQUIRY OFFICER BEFORE THE 2ND RESPONDENT

EXT.P6 : COPY OF APPLICATION FILED BY THE PETITIONER DATED 7/7/03 BEFORE THE 1ST RESPONDENT

EXT.P7 : COPY OF ORDER IN M.P.NO.87/03 IN I.D.NO.28/02 ISSUED BY THE 1ST RESPONDENT DATED 13/9/04

EXT.P8 : COPY OF PAGE 6 OF THE ENQUIRY PROCEEDINGS SIGNED BY THE ENQUIRY OFFICER, PRESENTING OFFICER AND THE 2ND RESPONDENT

EXT.P9 : COPY OF PAGE 6 OF THE ENQUIRY PROCEEDINGS IN WHICH THE LETTER DID NOT APPEAR WHICH WAS DISCARDED BY THE ENQUIRY OFFICER

RESPONDENTS' EXHIBITS :

EXT.R2(a) : COPY OF THE LETTER DATED 22.8.2002 SUBMITTED BY THE 2ND RESPONDENT BEFORE ENQUIRY OFFICER

EXT.R2(b) : COPY OF THE OBJECTION FILED BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT

EXT.R2(c) : COPY OF THE LETTER FROM THE CHIEF MANAGER (PERSONNEL) TO THE ASSISTANT LABOUR COMMISSIONER, ERNAKULAM DATED 10.3.2004

EXT.R2(d) : COPY OF THE JUDGMENT DATED 27.08.2013 IN C.C.NO.179/2004 ON THE FILES OF COURT OF JUDICIAL FIRST CLASS MAGISTRATE, PONNANI

/TRUE COPY/

P.A TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.31381 of 2004

Dated this the 2nd day of March, 2015

J U D G M E N T

The petitioner, the South Indian Bank Ltd has filed this writ petition challenging Ext.P7 order of the Industrial Tribunal, Palakkad in M.P.No.87/2003 in I.D.No.28/2002. As per the impugned order an application filed by the petitioner under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of an order of dismissal passed against the 2nd respondent/clerk of the Bank was dismissed.

2. The 2nd respondent was working as a clerk of the petitioner Bank. She was in charge of a computer system by name 'Unik Banker', which contained details of all the bank accounts of the Branch and the details of the transactions therein. She was working at the Ponnani Branch of the petitioner.

3. On 04.12.2000, according to the petitioner it was detected that there was an amount of ₹10,59,418/- as deficit balance in the Savings Bank Account of the petitioner. Since an SB Account cannot show deficit balance, the 2nd respondent was questioned. Thereupon, she is stated to have submitted Ext.P1 reply admitting that, the deficit seen was the result of some mistakes committed by her in operating the system. Therefore, she sought pardon. Thereafter, it is stated that the 2nd respondent had submitted Ext.P2 letter dated 11.12.2000 admitting that, she had misappropriated an amount of ₹10,59,784.95/-.

She had also taken up the responsibility for such misappropriation entirely on herself, without attributing any role to an accomplice. She further expressed her willingness to remit the entire amount back to the Bank. According to the petitioner, she had accordingly paid an amount of ₹5.50 lakhs on 23.12.2000 and a further amount of ₹6 lakhs on 30.12.2000.

4. In the context of the misappropriation that was detected, an audit was conducted and the petitioner found that the 2nd respondent had misappropriated various other sums of money. Therefore, Ext.P3 Memo of Charges dated 15.04.2002 was issued to her. The petitioner replied to the same by Ext.P4 dated 24.04.2002 denying all the allegations. Thereupon, a disciplinary enquiry was initiated against her. She entered appearance before the Enquiry Officer and sought for permission to be represented by a lawyer. By Ext.P5, her request was rejected by the Enquiry Officer. She was also directed to make a request to the Disciplinary Authority. However, no such request was made by the 2nd respondent. Therefore, the enquiry proceeded and was completed. On the basis of the report of the enquiry, it was decided to dismiss the petitioner from service.

5. During the said period, another industrial dispute I.D.No.28/2002 was pending before the Industrial Tribunal. According to the petitioner, the same was an individual dispute relating to the dismissal of an employee by name Sri.P.J.Antony. Since the said

industrial dispute was pending, the petitioner submitted a petition, Ext.P6 under Section 33(2)(b) of the Industrial Disputes Act seeking approval of the Industrial Tribunal, for the punishment that was proposed against the 2nd respondent. The petition was considered by the Industrial Tribunal and has been rejected. The petitioner has filed this writ petition challenging Ext.P7, contending *inter alia* that, the Industrial Tribunal had no jurisdiction to consider the question relating to the punishment imposed on the 2nd respondent and further contending that, the finding of the Industrial Tribunal that the enquiry was vitiated by violation of the principles of Natural Justice, is unsustainable.

6. According to Adv.Sri.Saji Varghese who appears for the petitioner, the right to be represented by a lawyer in a domestic enquiry is not part of the principles of Natural Justice available to a charge sheeted employee. In so far as the petitioner Bank is concerned, the issue is governed by the terms of the Bipartite Settlement entered into between the Bank and its workmen. As per the terms of the agreement, the right of an employee is only to be represented by a representative of the registered Trade Union, of which he is a member and in cases where he is not a member of the Trade Union, by either a representative of a registered Trade Union or another employee of the Bank. An employee can claim the assistance of a lawyer only with the permission of the Bank. In the present case,

the 2nd respondent had not sought for the permission of the Bank. Therefore, according to the learned counsel, there was no infirmity in the domestic enquiry that was conducted. The permission sought for by the 2nd respondent was rightly declined by the Enquiry Officer. The 2nd respondent had not pursued the matter thereafter. According to the learned counsel, the 1st respondent had proceeded in the matter without taking note of the fact that, the approval sought for by Ext.P6 was unnecessary for the reason that, no such approval was necessary in the facts and circumstances of the present case. It is also contended that, the Tribunal has proceeded in the matter without jurisdiction and therefore, Ext.P7 is liable to be set aside.

7. Adv.Smt.A.K.Preetha appears for the 2nd respondent. The learned counsel opposes the contentions of the learned counsel for the petitioner. It is pointed out by the learned counsel that, the present contention of the counsel for the petitioner that, the 1st respondent Tribunal had no jurisdiction to consider Ext.P6 is unsustainable. This is for the reason that, the petitioner had on its own invoked the jurisdiction of the Tribunal, which is an authority on whom jurisdiction has been conferred by the enactment. Having invoked the jurisdiction of the Tribunal and subjected to the same, it is not open to the petitioner to question the jurisdiction, when the decision is found to be against them. It is further pointed out that, the charges in the present case being complicated and technical in nature, even assuming the 2nd

respondent to be educated, it cannot be said that she would have been competent to answer the charges and to defend herself properly at the domestic enquiry, on her own. The learned counsel draws my attention to the fact that, criminal proceedings had also been initiated against the 2nd respondent, and were pending before the criminal court. The nature of the defence to be taken by the 2nd respondent in the enquiry proceedings would have a bearing on her defence in the criminal proceedings and denial of the assistance of a lawyer could adversely affect her prospects in the criminal trial, that was progressing. Considered in the above background it is contended that, it was only appropriate that the 2nd respondent was given the permission to be represented by a lawyer. According to the learned counsel for the 2nd respondent, the Tribunal has held that, the domestic enquiry that was conducted was vitiated by violation of the principles of Natural Justice. Since the petitioner had not requested for a chance to be permitted to defend their action by adducing fresh evidence before the Tribunal, they have lost their chance to do so. Therefore, it is not open to them to raise the said contentions before this Court in these proceedings. The counsel also points out that, the consequences of proceedings of the Industrial Tribunal under Section 33(2)(b) is that the 2nd respondent continues to be in service. However, she has not been paid wages. The proceedings had commenced in the year 2002 and we are in the year 2015. The counsel also places reliance on

various decisions of the Apex Court in support of her contention that the writ petition is liable to be dismissed.

8. The learned counsel for the petitioner replies to the contentions made on behalf of the 2nd respondent by pointing out that, though the 2nd respondent had initially sought for the permission of the Enquiry Officer to be represented by a lawyer, after the receipt of Ext.P5 she had not pursued the matter before the petitioner Bank. Instead, she had participated in the enquiry proceedings. According to the learned counsel, the Tribunal has also not considered the evidence in this case but had proceeded to refuse the approval for the only reason that, permission to be represented by a lawyer had not been given to the 2nd respondent. The counsel also places reliance on decisions of the Apex Court to point out that, right to be represented by a lawyer at a domestic enquiry is not part of the principles of Natural Justice.

9. Heard. The facts are not in dispute except to the extent that, the 2nd respondent claims to be innocent of the charges levelled against her. It is also contended that Exts.P1 and P2 letters were written by her under pressure from the higher officials of the petitioner Bank. According to the counsel, she had been sanctioned two loans and the amounts have been retained in a Suspense Account. Despite the passage of more than a decade, nobody has claimed the said amount. Therefore, the allegations are stated to be absolutely

baseless.

10. The question that essentially arises for determination in this case is whether Ext.P7 order of the Industrial Tribunal is sustainable or not. It is not in dispute that the petitioner had invoked the jurisdiction of the Industrial Tribunal by submitting Ext.P6 application under Section 33(2)(b) of the Act. Sub Sections 1 and 2 of Section 33 are reproduced hereunder for convenience of reference.

33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.- (1) *During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,-*

(a) *in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or*

(b) *for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.*

(2) *During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman-*

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or*
- (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:*

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer."

A perusal of the above provision shows that, Sub Sections 1 and 2 contemplate different situations. Sub Section 1 enacts a prohibition against alteration to the prejudice of the workmen concerned in "such dispute", the conditions applicable to them immediately before the commencement of "such proceeding" by the employer. It also prohibits action for any misconduct connected with the dispute, in the nature of a discharge or other punishment, whether by dismissal or otherwise, against any workman concerned in "such dispute", without the express permission of the authority before which the dispute is pending. The above provision therefore makes it clear that, the prohibition is confined to an alteration to the prejudice of the workmen concerned, the conditions of service applicable to them or to the imposition of punishment of any kind on them, while such dispute was pending before the authority adjudicating the same. The expressions

“such dispute” and “such proceeding” makes it clear that the prohibition that has been enacted would apply only to the particular dispute and the particular proceeding that was pending.

11. Sub Section 2 on the other hand deals with an industrial dispute which is pending adjudication before an authority under the Act. In such cases, the prohibition is against altering, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of “such proceeding”. The above provision also refers to the proceeding that was pending before the authority adjudicating the same, in relation to the employee concerned in such dispute.

12. In the present case, admittedly, I.D.No.28/2002 that was pending before the Industrial Tribunal, Palakkad related to the dismissal of an employee by name Sri.P.J.Antony. The dispute referred for adjudication was whether the action of the petitioner in dismissing the said workman from service was justified. Inasmuch as, the dispute in the present case was neither part of nor connected in any manner with the dispute that was pending adjudication of the Industrial Tribunal in I.D.No.28/2002 it is held that, the provisions of Section 33 (2)(b) was not applicable to the present case. Therefore, it was unnecessary for the petitioner to have invoked the jurisdiction of the Industrial Tribunal by submitting Ext.P6 as done in the present case.

13. The next question is whether having invoked the jurisdiction

of the Industrial Tribunal and subjected to the jurisdiction of the said Tribunal, it is open to the petitioner to turn around and question the jurisdiction of the Tribunal after the order was pronounced. The counsel for the 2nd respondent has placed reliance on the decision in ***The United Commercial Bank Ltd. v. Their Workmen [AIR (33) 1951 SC 230]*** in which a Constitutional Bench of the Apex Court has considered a similar question. In the said case where three members had to conduct sittings and decide a particular matter, the sittings had been conducted only by two persons. Therefore, an objection had been raised against the sitting that was conducted by only two members. But, the said objection had been overruled. It has been held that, a distinction has to be drawn between a decision made by a Tribunal that has the jurisdiction to decide an issue and a Tribunal that does not have the jurisdiction to decide the same. If the Tribunal has jurisdiction to deal with the same, the question of acquiescence does not arise. While in the case of a Tribunal that does not have jurisdiction, acquiescence cannot supply the lack of jurisdiction. In the present case, as already found by me, it was unnecessary for the petitioner to have submitted Ext.P6 or to have invoked the jurisdiction of the Industrial Tribunal. The proper course for the Tribunal to have adopted was to find that the approval sought for was unnecessary and uncalled for in the facts and circumstances of the case. Therefore, this is a case in which, the Tribunal lacked the jurisdiction to entertain

Ext.P6 or to pass Ext.P7 order. This is because the dispute in the present case which is between the petitioner and the 2nd respondent relating to her dismissal had no connection whatsoever with the dismissal of Sri.P.J.Antony, the dispute that was pending adjudication before the Industrial Tribunal. Therefore, the Tribunal has entered upon the process of adjudication on the erroneous assumption that, it had jurisdiction over the said case.

14. The learned counsel for the petitioner has placed reliance on the decision in ***National Seeds Corpn. Ltd. v. K.V.Rama Reddy [(2006) 11 SCC 645]*** to put forward a contention that, the denial of permission to be assisted by a lawyer at a domestic enquiry cannot be characterised as violation of the principles of Natural Justice. It is pointed out that, in the said case in spite of the allegation being that more than 63 lakhs of rupees had been misappropriated by the charge sheeted employee, the Honourable Supreme Court has held the rejection of permission to be assisted by a lawyer to be justified. The issue has been concluded by the Court in Paragraph 10 of the said judgment in the following words :

"10. Learned counsel for the appellant Corporation has brought to our notice office memorandum dated 21-11-2003 by which the prayer to engage a legal practitioner to act as a defence assistant was rejected. Reference was made to the Rules, though no specific reference has been made to the discretion available to be exercised in particular circumstances of a case. The same has to be noted in the background of the

basis of prayer made for the purpose. The reasons indicated by the respondent for the purpose were: (a) amount alleged to have been misappropriated is Rs 63.67 lakhs, (b) a number of documents and number of witnesses are relied on by the respondent, and (c) the prayer for availing services of the retired employee has been rejected and the respondent is unable to get any assistance to get any other able co-worker. None of these factors are really relevant for the purpose of deciding as to whether he should be granted permission to engage the legal practitioner. As noted earlier, he had to explain the factual position with reference to the documents sought to be utilised against him. A legal practitioner would not be in a position to assist the respondent in this regard. It has not been shown as to how a legal practitioner would be in a better position to assist the respondent so far as the documents in question are concerned. As a matter of fact, he would be in a better position to explain and throw light on the question of acceptability or otherwise and the relevance of the documents in question. The High Court has not considered these aspects and has been swayed by the fact that the respondent was physically handicapped person and the amount involved is very huge. As option to be assisted by another employee is given to the respondent, he was in no way prejudiced by the refusal to permit engagement of a legal practitioner. The High Court's order is, therefore, unsustainable and is set aside."

15. Per contra, the learned counsel for the 2nd respondent has placed reliance on the decision in **Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni and Others [1983 KHC 412]** where in paragraph 10 of the judgment the Honourable Apex Court has noted the scenario at a domestic enquiry

and held as follows :

*The situation is where the employer has on his payrolls labour officer, legal advisers-lawyers in the garb of employees and they are appointed Presenting-cum-Prosecuting Officers and the delinquent employee pitted against such legally trained personnel has to defend himself. **Now if the rules prescribed for such an enquiry did not place embargo on the right of the delinquent employee to be represented by a legal practitioner, the matter would be in the discretion of the Enquiry Officer** whether looking to the nature of charges, the type of evidence and complex or simple issues that may arise in the course of enquiry, the delinquent employee in order to afford a reasonable opportunity to defend himself should be permitted to appear through a legal practitioner. Why do we say so ? Let us recall the nature of enquiry, who held it, where it is held and what is the atmosphere? Domestic enquiry is claimed to be a managerial function. A man of the establishment don-, the robe of a Judge. It is held in the establishment office or a part of it. Can it even be compared to the adjudication by an impartial arbitrator or a Court Presided over by an, unbiased judge? The enquiry Officer combines the judge and prosecutor rolled into one. Witnesses are generally employees of the employer who directs an enquiry into misconduct. This is sufficient to raise serious apprehensions. Add to this uneven scales, the weight of legally trained minds on behalf of employer simultaneously denying that opportunity to delinquent employee. The weighted scales and titled. balance can only be partly restored if the delinquent is given the same legal assistance as the employer enjoys.*

[Emphasis supplied]

The above passage shows that, the Apex Court has recognised a situation where, the Rules could prescribe an embargo on the right of the delinquent employee to be represented by a legal practitioner.

16. The learned counsel also places reliance on a recent decision of the Honourable Supreme Court in Civil Appeal No.8224/2012 dated 06.02.2015, that has not yet been reported (**Professor Ramesh Chandra v. University of Delhi & Ors.**). After considering the question as to whether the employee had a right to be represented by a lawyer, the Honourable Apex Court has concluded the issue in paragraph 30 of the judgement as follows :

"30. In view of the law laid down by this Court, we are of the view that if any person who is or was a legal practitioner, including a retired Hon'ble Judge is appointed as Inquiry Officer in an inquiry initiated against an employee, the denial of assistance of legal practitioner to the charged employee would be unfair."

The above passage shows that, where the Enquiry Officer is a trained legal person, the employee would have a right to be represented by a lawyer.

17. In the present case, it is not in dispute that the right to be represented by a lawyer is governed by Clause 19.12 of the Bipartite Settlement on the Industrial Dispute Between the Banking Companies and their workmen to which the petitioner is also a party. Sub clause (a) of Clause 19.12 reads as follows :

19.12 The procedure in such cases shall be as follows :-

(a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation so also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witness and produce other evidence in his defence. He shall also be permitted to be defended-

(i) (x) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.

(y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed;

OR

(ii) at the request of the said union by a representative of the state federation or all India Organisation to which such union is affiliated;

OR

(iii) with the Bank's permission, by a lawyer.

He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.

As per the above clause, the permission to be defended by a lawyer

has to be with the permission of the Bank, the petitioner herein. Ext.P5 shows that the petitioner had sought for such permission from the Enquiry Officer. The Enquiry Officer was the Chief Manager of South Indian Bank Ltd. There is no material available as to whether he was legally trained or not. As per Ext.P5, it is seen that he had informed the 2nd respondent that she had a right for engaging a lawyer “only if the Bank permits” her to be defended by a lawyer at the enquiry. Therefore, she was requested to approach the Disciplinary Authority. However, it is not in dispute that, the Disciplinary Authority was not so approached thereafter.

18. As noticed above, from the dicta in the decisions of the Honourable Apex Court, where there is a provision to the contra applicable to the employer and the employee, it is permissible to deny the assistance of a lawyer. In the present case, the assistance of a lawyer could have been sought only with the permission of the Bank. For the purpose, though the 2nd respondent was directed to approach the Disciplinary Authority, she had not done so. Therefore, she had participated in the enquiry proceedings without pursuing her attempts to have the assistance of a lawyer. In view of the above, it cannot be said that, denial of the assistance of a lawyer amounts to violation of the principles of Natural Justice, in the present case.

19. It has been noted by the 1st respondent in Ext.P7 that, the Enquiry Officer had made the petitioner sign on certain blank papers

and had thereafter filled up the portions left blank. The petitioner has produced Exts.P8 and P9 to contend that, the said finding is without basis. According to the counsel for the petitioner, Ext.P9 is the blank paper of which reference has been made by the Industrial Tribunal. According to the counsel, the Enquiry Officer had been recording the proceedings at each sitting date using a carbon paper. It was due to some defect in the manner in which the carbon paper was placed, the body of the proceedings dated 18.12.2002 is not seen in Ext.P9. Ext.P9 according to the learned counsel was produced before the 1st respondent at the time of arguments and no opportunity was given to the counsel for the petitioner to explain the situation. The counsel for the petitioner points out with reference to Ext.P8 that, the petitioner has affixed her signature at the bottom of the proceedings recorded. The impression of the said signature also is not found on Ext.P9. Though the signature is not disputed, the learned counsel for the 2nd respondent disputes the contentions of the counsel for the petitioner by pointing out that, the explanation is unsustainable. Be that as it may, it is true that, I am also not in a position to understand how the impression of what has been written on Ext.P8 has not appeared on Ext.P9, if it was written using a carbon paper. However, the fact remains that, the petitioner appears to have signed Ext.P8. Her signature appears at two places, one after the proceedings on 18.12.2002 were recorded, and the other at the bottom of the page.

Neither of her signature is disputed. Therefore, I am not satisfied that the said discrepancy could justify a conclusion that the Enquiry Officer was proceeding in a biased manner. Since I have already found that, the 1st respondent lacked jurisdiction to consider Ext.P6 and that, the reasoning regarding the violation of Natural Justice of the 1st respondent cannot be sustained, the petitioner is entitled to succeed.

For the above reasons, this writ petition is allowed. Ext.P7 is set aside. The 1st respondent is directed to consider the matter afresh and to pass fresh orders in the matter, in accordance with law. Considering that the matter has been pending for such a long time, the 1st respondent shall take up the matter on priority basis and finally dispose of the same as expeditiously as possible and at any rate within a period of three months of the date of receipt of a copy of this judgment.

Sd/-
K.SURENDRA MOHAN, JUDGE.