

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(C).NO. 21794 OF 2013 (Y)

PETITIONER(S):

K.J.ALIYAMMA, AGED 52 YEARS
W/O V.J JONY VALUPRAMBIL HOSUE, PALIYAKKARA
THIRUVALLA

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY
DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM 695001

2. THE DIRECTOR OF URBAN AFFAIRS,
DIRECTOR OF URBAN AFFAIRS
THIRUVANANTHAPURAM 695001

3. THE DEPUTY DIRECTOR,
LOCAL FUND AUDIT DEPARTMENT, PATHANAMTHITTA 689645

4. THE SECRETARY,
THIRUVALLA MUNICIPALITY, THIRUVALLA 689101

BY GOVERNMENT PLEADER SRI.RINNY STEPHEN CHAMAPARAMBIL
BY SRI.S.SUBHASH CHAND, SC.THIRUVALLA MUNC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 21794 OF 2013 (Y)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE ORDER G.O(RT) NO 435/07/ LSGD DATED
14-02-2007

EXHIBIT P2 TRUE COPY OF THE MEMO NO HI 6823/07 DATED 06-03-2010 ISSUED
BY THE 4TH RESPONDENT SECRETARY TO THE PETITIONER

EXHIBIT P3 TRUE COPY OF THE NOTICE NO H1 6823/07 DATED 30-08-2010
ISSUED BY THE SECRETARY, THIRUVALLA MUNICIPALITY TO THE PETITIONER

EXHIBIT P4 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER TO DEPUTY
DIRECTOR (HIGHER GRADE) LOCAL FUND AUDIT OFFICER, PATHANAMTHITTA DATED
27-05-2010

EXHIBIT P5 TRUE COPY OF THE REPRESENTATION DATED 27-05-2010 BEFORE THE
1ST RESPONDENT DATED 27-05-2010

EXHIBIT P6 TRUE COPY OF THE REPRESENTATION DATED 14-11-2011 FILED BY
THE PETITIONER BEFORE THE HON'BLE CHIEF MINISTERS PUBLIC CONTACT
PROGRAMME

EXHIBIT P7 TRUE COPY OF THE ORDER OF 1ST RESPONDENT DATED 30-03-2013

EXHIBIT P8 TRUE COPY OF THE CIRCULAR NO 38/2002/FIN DATED 03-06-2002 OF
SECRETARY, FINANCE (RULES), DEPARTMENT

EXHIBIT P9 TRUE COPY OF THE CIRCULAR NO 72/2006/ FIN DATED 30-12-2005
ISSUED BY THE PRINCIPAL SECRETARY (FINANCE)

EXHIBIT P10 TRUE COPY OF THE G.O(MS) NO 114/72/LA&SWD DATED 18-04-1972

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.21794 of 2013

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Dated this the 3rd day of August, 2015

J U D G M E N T

The petitioner who is a sanitary worker under the contingent section of the 4th respondent Municipality had been sanctioned leave without allowance by the 1st respondent by Ext.P1 order dated 14.02.2007. In the writ petition, the petitioner is aggrieved by Ext.P7 order dated 30.03.2013 whereby the 1st respondent cancelled Ext.P1 order, on the ground that, Ext.P1 order had been passed on a mistaken assumption that the rules permitted the sanctioning of leave to the petitioner. The main contention urged in the writ petition is that Ext.P7 order does not contain any reasons to show the basis of the decision therein to cancel Ext.P1 order that was earlier passed sanctioning leave without allowance to the petitioner. It is also the contention of the petitioner that Ext.P7 order was passed without hearing the petitioner.

2. I have heard the learned counsel for the petitioner, the learned Government Pleader for respondent 1 to 3 and the learned Standing counsel for the 4th respondent Municipality.

On a consideration of the facts and circumstances of the case

as also the submissions made across the bar, and taking note of the fact that in Ext.P7 order, there is no specific reason stated as to why the leave without allowance, that was sanctioned in favour of the petitioner by Ext.P1 order, had to be cancelled, and further, it is not in dispute that the petitioner was not heard prior to passing Ext.P7 order, Ext.P7 order cannot be legally sustained. Accordingly, I quash Ext.P7 order and direct the 1st respondent to pass fresh orders in the matter within a period of two months from the date of receipt of a copy of this judgment after hearing the petitioner. Taking note of the fact that the petitioner is due for retirement in two months, the 1st respondent is directed to adhere to the time limit specified in this judgment for disposing the matter. The petitioner shall produce a copy of this writ petition together with a copy of this judgment before the 1st respondent for further action. The interim order passed by this Court staying the recovery of the amounts from the petitioner shall continue to be in force till such time as orders as passed by the 1st respondent as directed and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

