

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 27050 of 2012 (E)

PETITIONER :

**KHAN BAHADUR. J, AGED 54 YEARS
S/O.JAFARKHAN,
OFFICE ATTENDANT (OUT OF EMPLOYMENT)FROM ELECTRICAL
SECTION, CHENGANAMAD, KOLLAM DISTRICT,
RESIDING AT CV NEW HOME OYOOR (P.O)KOLLAM DISTRICT.**

BY ADV. SRI.M.V.THAMBAN

RESPONDENT'S :

- 1. KERALA STATE ELECTRICITY BOARD,
VYDUYTHI BHAVANAM, PATTAM P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, PIN-695 001.**
- 2. CHIEF ENGINEER (HUMAN RESOURCES MANAGEMENT),
KERALA STATE ELECTRICITY BOARD,
VYDUYTHI BHAVANAM, PATTOM P.O., THIRUVANANTHAPURAM,
PIN-695 004.**
- 3. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE, KERALA STATE ELECTRICITY BOARD
KOTTARAKKARA, KOTTARAKKARA P.O.,
KOLLAM DIST PIN-691 506.**
- 4. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY BOARD,
KOTTARAKKARA, KOTTARAKKARA P.O, KOLLAM DISTRICT,
PIN-691 506.**
- 5. THE SECRETARY
KERALA STATE ELECTRICITY BOARD, VYDUYTHI BHAVANAM,
PATTAM P.O., THIRUVANANTHAPURAM, PIN-695 004.**

BY ADV. SRI.K.S. ANIL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

**EXT. P1 : TRUE COPY OF THE MEDICAL CERTIFICATE DT. 21.06.2012 ISSUED
BY THE CONSULTANT CIVIL SURGEON AND NEURO PSYCHIATRIST,
DISTRICT HOSPITAL, KOLLAM.**

**EXT. P2 : TRUE COPY OF THE ORDER NO. GB1/DISC/98-99/ 27.07.1998/748/
KOTTARAKKARA OF THE 4TH RESPONDENT.**

EXT. P3 : TRUE COPY OF THE CERTIFICATE DATED 14.11.2012

**EXT. P4 : TRUE COPY OF THE REPRESENTATION DATED 21.11.2012
ADDRESSED TO THE 4TH, 3RD AND THE 1ST RESPONDENTS.**

EXT. P5 : TRUE COPY OF THE MEDICAL CERTIFICATE DATED 28.02.2015.

RESPONDENT'S EXHIBITS:NIL

//TRUE COPY//

PA TO JUDGE

bpr

A.MUHAMED MUSTAQUE, J.
=====

W.P(C).No.27050 of 2012
=====

Dated this the 06th day of April, 2015

JUDGMENT

Petitioner entered in the service of Kerala State Electricity Board with effect from 17.03.1977 as Office Attender. Petitioner has been removed from the service pursuant to disciplinary proceedings initiated against him as per order of the Board dated 27.07.1998. Petitioner approached this Court challenging Ext.P2 order of removal. This order is passed exparte on account of non participation of the petitioner inspite of service of notice.

2. In this matter, Board filed a statement. It is stated that petitioner was terminated from the service with effect from 17.10.1994 as per Ext.P2 order taking into account the fact that petitioner remained continuously absent from 17.10.1994. It is further stated that petitioner approached this Court only in the year 2012 challenging Ext.P2 order. It is also pointed out that petitioner in fact made a request as per Annexure-R4(a) to close the disciplinary proceedings and grant him benefits. Therefore, in the light of Annexure-R4(a), petitioner cannot say that he has cause of action in the year 2012 to file this Writ Petition.

3. The precise case of the petitioner is that he was under

treatment for mental ailment. He relies on various certificates issued by Neuro psychiatrist of Government hospital. It is further submitted that his mental ailment has been fully cured only in the year 2011 and hence he is entitled to challenge Ext.P2.

4. On going through the pleadings of the petitioner, it is revealed that he was under treatment for depressive psychosis. This ailment is something which is medically considered as mental disorder in which person has depression along with loss of reality. Whatever be the situation, because of mental ailment as shown in medical records, petitioner has undergone treatment for psycho disorder. It has been pointed out by learned counsel for the petitioner that nobody having prudence would ever think of forfeiting qualifying service for pension by not participating in disciplinary proceedings resulted in termination. It is also pointed out that it is only because of mental disorder, he could not take part in the disciplinary proceedings and was absent before the Enquiry Officer.

5. Taking into account the overall facts and circumstances, I am of the view if petitioner's documents are

found genuine, necessarily, petitioner should not be mulcted with harsh punishment of removal from the service on account of unauthorized absence. Therefore, after verifying the medical certificates and also verifying whether there was any such lapse on the part of petitioner in challenging the decision within time, necessary order shall be passed in the matter. The Board shall take a decision in this matter within a period of two months from the date of receipt of a copy of this judgment. Petitioner shall also produce originals of medical certificates and such records showing the period of treatment.

The Writ Petition is disposed of. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/06/04/15