

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

W.P.(C).No.33960 of 2009 (L)

PETITIONER(S):

ANIL KUMAR.S, SHAFLIN MANZIL, ELOOR NORTH,
UDYOGAMANDAL P.O., KOCHI - 683 501
[FORMERLY ASSISTANT,
TRAVANCORE COCHIN CHEMICALS LTD.]

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
INDUSTRY DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
2. MANAGING DIRECTOR,
TRAVANCORE COCHIN CHEMICALS LTD., UDYOGAMANDAL P.O.,
KOCHI.
3. THE PERSONAL MANAGER, TRAVANCORE COCHIN CHEMICALS LTD.,
UDYOGAMANDAL, KOCHI.
4. ASSISTANT GENERAL MANAGER (HR),
TRAVANCORE COCHIN CHEMICALS LTD., UDYOGAMANDAL.

R1 BY GOVERNMENT PLEADER SRI.S.JAMAL.

R2 TO R4 BY ADVS. SRI.E.K.NANDAKUMAR [SENIOR ADVOCATE]

SRI.K.JOHN MATHAI

SRI.P.BENNY THOMAS

SRI.P.GOPINATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

-
- | | |
|---------|---|
| EXT.P1 | TRUE COPY OF THE MEMO NO.PM/238/2005 DATED 28.2.2005. |
| EXT.P2 | TRUE COPY OF THE CIRCULAR NO.13818/BPEP2/02/PLG.
DATED 4.12.2003 OF THE GOVERNMENT OF KERALA
PLANNING & ECO.(BPE) DEPARTMENT. |
| EXT.P3 | TRUE COPY OF THE LETTER DATED 11.7.2007 OF THE
PERSONAL MANAGER ADDRESSED TO THE FINANCE MANAGER. |
| EXT.P4 | TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED
18.7.2007 ISSUED BY THE PERSONAL MANAGER. |
| EXT.P5 | TRUE COPY OF THE APPLICATION DATED 20.07.2007
SUBMITTED BY THE PETITIONER BEFORE THE
1ST RESPONDENT. |
| EXT.P6 | TRUE COOPY OF THE LETTER DATED 14.1.2008 OF THE
PETITIONER ADDRESSED TO THE 2ND RESPONDENT. |
| EXT.P7 | TRUE COPY OF THE PETITION DATED 19.3.2008
SUBMITTED BY THE PETITIONER BEFORE THE
PERSONAL MANAGER OF THE COMPANY. |
| EXT.P8 | TRUE COP-Y OF THE MEMO NO.PM605/2008 DATED 29.4.2008
' OF THE 2ND RESPONDENT. |
| EXT.P9 | TRUE COPY OF THE PETITION DATED 12.5.2008 SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT ALONG WITH
VISA. |
| EXT.P10 | TRUE COPY OF THE PETITION DATED 16.12.2008 SUBMITTED
BY THE [PETITIOENR BEFORE THE 2ND RESPONDENT. |
| EXT.P11 | TRUE COPY OF THE REPRESENTATION DATED NIL,
SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE
MINISTER FOR INDUSTRIES. |
| EXT.P12 | TRUE COPY OF THE FAX MESSAGE DATED 2.4.2009 ADDRESSED
TO THE ASSISTANT GENERAL MANAGER (HR), TRAVANCORE
COCHIN CHEMICALS. |

- EXT.P13 TRUE COPY OF THE NOTICE PUBLISHED IN THE MALAYALA
MANORAMA DAILY DATED 2.4.2009.
- EXT.P14 TRUE COPY OF THE MEMO NO.AGM(HR)/510/2009 DATED
7.4.2009 FROM THE ASSISTANT GENERAL MANAGER (HR).
- EXT.P15 TRUE COPY OF THE MEMO NO.AGM(HR) 593/09 DATED 24.4.09.
- EXT.P16 TRUE COPY OF THE G.O.(RT) NO.612/2009/ID DT.22.5.2009.
- EXT.P17 TRUE COPY OF THE G.O.(RT) NO.1257/2009/ID DATED 24.9.09.
- EXT.P18 TRUE COPY OF THE LETTER NO.15007/H2/2006/ID DATED
2.12.2006 OF THE 1ST RESPONDENT, ADDRESSED TO THE
2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.33960 of 2009-L

Dated this the 09th day of October, 2015

JUDGMENT

The petitioner is aggrieved by the fact that the petitioner was terminated from service as per Exhibit P15.

2. The petitioner was appointed as Junior Assistant on 16.12.1997 in the respondent-Company. The petitioner was promoted as an Assistant in the year 2004. While he was continuing as an Assistant, the petitioner applied for leave for proceeding abroad, on employment. The petitioner is said to have been issued with Exhibit P4, No Objection Certificate [for brevity "NOC"], by the Company. However, the NOC was subject to sanction from the Government. The Government, as is revealed in the counter affidavit, directed the Company to place the application before the Board. The Board rejected the application and, hence the petitioner was directed to re-join. The petitioner complied with the same and he was allowed to re-join as per Exhibit P8.

3. Subsequently, the petitioner gave a further leave application as per Exhibit P9 and then even without a NOC as is indicated above, absented himself and went abroad. The petitioner's contention is that since he had an offer of appointment as is indicated at Exhibit P9, the petitioner had to go immediately. Later on the petitioner having absented from duty, the petitioner was issued with a notice and on the same being not served, a public notice was issued in the newspapers as is indicated at Exhibit P13, which is produced by the petitioner himself. The petitioner having not reported, the petitioner was also issued with a memo in the address abroad, as is indicated at Exhibit P14, threatening action as per the provisions of the Certified Standing Orders of the Company. Thereafter, Exhibit P15 termination order was issued on 24.04.2009.

4. The petitioner's contention is that the leave applied for by the petitioner was sanctioned as per Exhibit P16 and the same stood cancelled without notice, by Exhibit P17. In this context it is to be noticed that the leave application was submitted by the petitioner to the Government through the Company. The petitioner had absented himself without sanction from the

Government or even permission from the Company. In the previous instance the petitioner was at least issued with a NOC, on the basis of which he went abroad. On the leave being not sanctioned, the petitioner offered himself for duty and he was permitted to so re-join. Immediately thereafter the petitioner filed a leave application and absented himself. The leave application which was pending before the Government was considered long afterwards by Exhibit P16 and sanctioned; by which time the petitioner was already terminated from service. The fact that Exhibit P17 was issued without notice is of no avail, since the sanction at Exhibit P16 could not have enured to the benefit of the petitioner, since the petitioner was already terminated. Admittedly he went abroad without sanction from the Company, therefore, the termination as per the provisions in the Certified Standing Orders of the Company, cannot be interfered with.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]