

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 30861 of 2015 (G)

PETITIONER : -

SREEJITH,
ANCHUPARAYIL HOUSE,
VAIKOM P.O., CHETTIMANGALAM,
KOTTAYAM.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
SRI.S.SABARINADH

RESPONDENT : -

KOTHAVARA SERVICE CO-OPERATIVE BANK LTD.NO.1359,
REPRESENTED BY ITS SECRETARY, KOTHAVARA P.O., VAIKOM,
KOTTAYAM-686607.

R1 BY ADV.SRI.T.A.SHAJI (SR.)
R1 BY ADV.SMT.NAMITHA JYOTHISH
R1 BY ADV.SMT.RAGAM.S.MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 30861 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT-P1 : TRUE COPY OF THE CALL-LETTER ISSUED BY THE RESPONDENT BANK TO THE PETITIONER DATED 20.05.2015 ALONG WITH TRANSLATION.

EXHIBIT-P2 : TRUE PHOTOCOPY OF THE ORDER OF APPOINTMENT NO.4126/15 ISSUED BY THE RESPONDENT BANK DATED 31.05.2015.

EXHIBIT-P3 : TRUE PHOTOCOPY OF THE ORDER OF DISMISSAL/DISCHARGE NO.4178/15 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER DATED 16.09.2015 & ALONG WITH TRANSLATION.

RESPONDENT'S EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 30861 of 2015

Dated this the 21st day of December, 2015

JUDGMENT

The petitioner, who was serving in the respondent Bank as a Peon on probation basis, was terminated from service through Exhibit P3 order. Assailing that the termination was in gross violation of the principles of natural justice, the petitioner has filed the present writ petition.

2. The learned counsel for the petitioner has submitted that the removal is stigmatic and Rule 184(3) of the Kerala Co-operative Societies Rules, 1969, mandates that the respondent Bank ought to have obtained prior permission from the Registrar, apart from providing a reasonable opportunity of hearing to the petitioner before it could pass Exhibit P3 order of summary dismissal.

3. The learned Senior Counsel for the respondent Bank has, however, made strenuous efforts to defend Exhibit P3. According to him, the petitioner being a probationer, the respondent Bank is always at liberty to terminate his services if the Bank is not satisfied with his services.

4. Be that as it may, though there is no cavil about the proposition of law that the employer can dispense with the service of a probationer, such discharge shall not be punitive in nature. A perusal of Exhibit P3 reveals that it is not only punitive, but also stigmatic.

Under the facts and circumstances, Exhibit P3 is set aside. It is, however, left open for the respondent Bank to take, if it desires, appropriate steps after following the due procedure. Needless to observe that in view of the interdiction of Exhibit P3, the respondent Bank shall reinstate the petitioner. At any rate, such reinstatement shall not be a hindrance for the respondent Bank to take further course of action. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-