

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

W.P.(C).No.34757 of 2015 (T)

PETITIONER(S):-

ANIL KUMAR. A., AGED 45 YEARS, S/O.APPU,
RESIDING AT PRIYA NIVAS, KAVINPURAM,
VILAPPILSALA PO, TRIVANDRUM - 695573,
JUNIOR ASSISTANT (UNDER SUSPENSION),
SUPPLY CO-MAVELI STORE, CHERIYAKONNI, TRIVANDRUM DIST.

BY ADV. SRI.C.K.SREEJITH.

RESPONDENT(S):-

1. ADDITIONAL GENERAL MANAGER,
THE KERALA STATE CIVIL SUPPLIES CORPORATION LTD.,
HEAD OFFICE, MAVELI BHAVAN, KADAVANTRA, KOCHI-682 020.
2. REGIONAL MANAGER,
THE KERALA STATE CIVIL SUPPLIES CORPORATION LTD.,
REGIONAL OFFICE, MAVELI TOWER, SISUVIHAR ROAD,
SASTHAMANGALAM PO, VAZHUTHACAUD, TRIVANDRUM - 695 010.
3. THE MANAGING DIRECTOR,
THE KERALA STATE CIVIL SUPPLIES CORPORATION LTD.,
MAVELI BHAVAN, MAVELI ROAD, GANDHI NAGAR,
KOCHI-682 020.
4. SMT. REMA DEVI A.
ASSISTANT REGIONAL MANAGER (DOMESTIC ENQUIRY OFFICER),
SUPPLY CO RM OFFICE, TRIVANDRUM - 695 541.
5. SRI. VINOD CHANDRAN
JR. MANAGER (PRESENTING OFFICER),
SUPPLY CO RM OFFICE, TRIVANDRUM - 695 541.

BY STANDING COUNSEL SMT.MOLLY JACOB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1 - THE TRUE COPY OF THE JUDGMENT IN WPC.NO.14496/2015 ON THE FILE OF THIS HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
- EXT.P2 - THE TRUE COPY OF THE PROCEEDINGS OF 1ST RESPONDENT DT. 21.5.2015.
- EXT.P3 - THE TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE ADDITIONAL GENERAL MANAGER, HEAD OFFICE, MAVELI BHAVAN, KADAVANTHRA DT. 7.9.2015.
- EXT.P4 - THE TRUE COPY OF THE REPRESENTATION DT. 12.9.2015 SUBMITTED THE MANAGING DIRECTOR, SUPPLY CO.
- EXT.P5 - THE TRUE COPY OF THE REPRESENTATION DT. 12.9.2015 BEFORE THE MANAGING DIRECTOR.
- EXT.P6 - THE TRUE COPY OF THE REPRESENTATION SUBMITTED TO THE 4TH RESPONDENT DT. 31.10.2015.
- EXT.P7 - THE TRUE COPY OF THE REPRESENTATION DT. 7.11.2015.

RESPONDENT(S)' EXHIBITS/ANNEXURES:-

- ANNEXURE 1 TRUE PHOTOCOPY OF THE LETTER DATED 4.9.2015 OF THE ENQUIRY OFFICER ADDRESSED TO THE PETITIONER.
- ANNEXURE 2 TRUE PHOTOCOPY OF THE NOTICE DATED 4.9.2015 OF THE ENQUIRY OFFICER ADDRESSED TO ASSISTANT MANAGER WITH COPY TO THE PETITIONER WITH HIS ACKNOWLEDGMENT.
- ANNEXURE 3 PHOTO COPY OF THE WRITING OF THE PETITIONER REGARDING PERUSAL OF THE RECORDS ON 26.9.2015 IN THE PRESENCE OF THE ENQUIRY OFFICER.
- ANNEXURE 4 PHOTO COPY OF THE NOTICE DATED 31.10.2015 ISSUED BY THE ENQUIRY OFFICER TO THE PETITIONER.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.34757 of 2015-T

Dated this the 08th day of December, 2015.

JUDGMENT

The petitioner, who is proceeded against on charges of misconduct, has filed the above writ petition raising three prayers; (i) to reinstate the petitioner in service pending disciplinary proceedings, (ii) to issue the copy of the documents as requested by the petitioner, enabling the petitioner to cross-examine the witnesses and (iii) a direction to the 3rd respondent to change the 4th respondent who is appointed as the Enquiry Officer.

2. The only contention against the 4th respondent is that the 4th respondent, Enquiry Officer, has failed to provide the petitioner copies of the documents he had asked for. It is to be specifically noticed that the petitioner does not produce any request specifically made, for documents but for Exhibit P7 list, which merely states that about 32 documents are necessary. A request has to be made with the details of the documents

sought for and Exhibit P7 cannot be considered to be a request made for supply of specific documents.

3. In any event, it is to be noticed that the petitioner was supplied with the documents sought for on the basis of the request made on 19.07.2015, which is produced at Annexure-1. Annexure-2 is the notice issued to the petitioner, permitting him to examine the documents intended to be relied on by the management in the disciplinary proceedings, which opportunity was availed of, as is evident at Annexure-3. The petitioner is found to have been issued with the documents he requested for and in such circumstance, there is absolutely no reason why the 4th respondent should be changed.

4. The next ground is with respect to the cross-examination of the witnesses. The respondent-Corporation has produced Annexure-4, by which the petitioner was issued with notice showing the list of witnesses who would be examined on specific dates noticed therein and directing him to appear for cross-examination of such witnesses. The respondent-Corporation also, in Annexure-4, indicated that the copies of the deposition of witnesses would be handed over to the petitioner, if required. The

learned Standing Counsel would also submit that though the examination of witnesses were carried on in the presence of the petitioner, the petitioner never co-operated with the enquiry and also refused to cross-examine the witnesses, which necessitated Annexure-4. In such circumstance, there is no specific direction required to enable the petitioner to cross-examine the witnesses, since already the same has been allowed by Annexure-4.

5. The prayer for reinstatement of the petitioner cannot be considered at this stage, especially since delay in enquiry proceedings is only due to the non-cooperation of the petitioner. The learned Standing Counsel for the respondent also specifically refers to the contention taken in the statement filed, that, the petitioner had specifically requested the Regional Manager to reinstate him, in which event alone he would co-operate with the enquiry. The communication of the petitioner to the Regional Manager has also been produced across the Bar, which clearly indicates that the petitioner has been trying to protract the proceedings without any reasonable cause.

6. In the circumstances detailed above, the respondent-Corporation shall issue a specific notice, similar to the

one seen from Annexure-4 notice, for enabling cross-examination of the witnesses by the petitioner. The petitioner shall, along with such notice, be issued with copies of depositions of all the witnesses. The petitioner shall appear on the dates specified and shall co-operate with the enquiry and if he does not appear and does not cross-examine the witnesses, the petitioner shall be declared *ex parte* and proceedings shall be concluded.

The writ petition would stand dismissed with the above observation. No costs.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]