

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 3RD DAY OF JULY 2018 / 12TH ASHADHA, 1940

WP(C) .No. 6320 of 2013

PETITIONER

A.PHILIP,
HEAD CONSTABLE, UIN-SR 8300296,
RAILWAY PROTECTION FORCE OUTPOST,PUNALUR,
RESIDING AT VALUMANNIL HOUSE,
CHEMPAKARAMANALLOOR, AALAMKUNNU,ANCHAL P.O.,
KOLLAM - 691 306.

BY ADVS.SRI.LEO GEORGE
SRI.K.N.SASIDHARAN NAIR
SRI.T.T.RAKESH
SRI.M.SUNIL

RESPONDENT(S) :

1. DIRECTOR GENERAL, RAILWAY PROTECTION FORCE,
MINISTRY OF RAILWAYS, GOVERNMENT OF INDIA,
NEW DELHI 110001.
2. ASSISTANT SECURITY COMMISSIONER AND DISCIPLINARY AUTHORITY,
RAILWAY PROTECTION FORCE, SOUTHERN RAILWAY,
MADURAI 625 001.
3. R.RAMASWAMY, ENQUIRY OFFICER, RAILWAY PROTECTION FORCE,
SOUTHERN RAILWAY, MADURAI 625 001.

BY ADV. SRI.JOHN MATHEW,SC
SRI.A.DINESH RAO, SC
SRI.C.S.DIAS,SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.V.

APPENDIX

PETITIONERS EXHIBITS:

- P1: TRUE COPY OF THE FIR IN CRIME NO 226/2012 OF ANCHAL POLICE STATION DATED 25.2.2012.
- P2; TRUE COPY OF THE MEMORANDUM NO.UXP/153/05/12 OF THE THIRD RESPONDENT TO THE PETITIONER DATED 21.11.2012.
- P3; TRUE COPY OF THE STATEMENT OF ALLEGATIONS ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER DATED 21.11.2012.
- P4; TRUE COPY OF THE CHARGES FRAMED ON THE BASIS OF THE STATEMENT OF ALLEGATIONS ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER DATED 21.11.2012.
- P5; TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE THIRD RESPONDENT DATED 7.12.2012.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

K.V.
12.07.2018

P.S.TO JUDGE

P.V.ASHA, J.

W.P.(C) No.6320 of 2013

Dated this the 3rd day of July, 2018

JUDGMENT

The petitioner, who is a Head Constable in the Railway Protection Force, has filed this writ petition seeking a declaration that the department proceedings initiated against him on the basis that the registration of a criminal case against him has brought discredit to the reputation of the Force in terms of Rule 146.4 of the Railway Protection Force Rules 1987 is without jurisdiction. Alternatively, the petitioner has also sought for a direction to the 2nd respondent to keep in abeyance the departmental proceedings initiated pursuant to Exts.P2 to P4 communications in so far as it relates to the charge concerning the registration of criminal case against him and consequent violation of Rule 146.4 of the Railway Protection Force Rules 1987 till the conclusion of the criminal case registered as per Ext.P1.

2. Ext.P2 charge sheet was issued to the petitioner on 21.11.2012. The charges against the petitioner were: (1) He absented from duty unauthorisedly from 16.5.2012 to 11.8.2012; (2) Local Police registered a criminal case under section 323 and 308 IPC on the basis of complaint filed by his wife. It was alleged that the registration of the criminal case against him was likely to bring discredit to the

reputation of the Force and hence he violated rules 146.1, 146.2(iii), 146.4, 147(i) &(iv) of RPF Rules 1987. In the statement of imputations-Ext.P3, it was alleged that the Sub Inspector of Police in charge registered a criminal case against the petitioner as crime No.226/12 under section 323&308 IPC on 25.05.2012 on the basis of a complaint filed by petitioner's wife and thus the petitioner failed to follow the code of behaviour both on and off duty and acted in a manner prejudicial to discipline which convincingly likely to bring discredit to the reputation of the Force.

3. The learned counsel for the petitioner submitted that the petitioner has since been acquitted in the criminal case. It is also pointed out that the criminal case was relating to a family dispute. The complaint was lodged by the wife at the instigation of her brothers. It is the case of the petitioner that rule 146.4 of RPF Rules 1987 does not attract in this circumstances.

4. As per the said Rule no member of the Force shall act in a manner prejudicial to discipline or conduct himself in such a manner which is reasonably likely to bring discredit to the reputation of the Force. It cannot be said that by reason of lodging a criminal case against a Police Constable, he acted prejudicial to discipline or that it would bring discredit to the reputation of the Force.

In this case registration of criminal case was in respect of a family dispute. It does not have any connection with the official duties of petitioner. Filing of complaint was an act beyond the control of the petitioner. It cannot be termed as a misconduct which brings discredit to the reputation of the force and one which invites disciplinary action. At any rate now that the petitioner has been acquitted, there is no reason for proceeding against the petitioner on the ground that criminal complaint was lodged against him. Therefore respondents shall not proceed with charge no.2 in Ext.P4. Respondents will be free to proceed against the petitioner on charge no.1.

The writ petition is disposed of as above.

Sd/-

**P.V.ASHA
JUDGE**

rkc