

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 01ST DAY OF OCTOBER 2019 / 9TH ASWINA, 1941

WP(C).No.22142 OF 2019(P)

PETITIONER:

S.PRASANTH,
AGED 34 YEARS
S/O.SASIDHARAN NAIR, RESIDING AT
PANAMTHOTTATHIL VEEDU, MARIYAPURAM P.O.,
THIRUVANANTHAPURAM - 695 122, WORKING AS
CONDUCTOR GRADE II (NOW UNDER SUSPENSION)
PARASALA DEPOT, PARASALA P.O.,
THIRUVANANTHAPURAM - 695 502.

BY ADVS.
SRI.ARUN.B.VARGHESE
SRI.R.SANJAY SANKAR

RESPONDENTS:

- 1 KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
TRANSPORT BHAVAN, EAST FORT P.O.,
THIRUVANANTHAPURAM - 695 023.
- 2 THE EXECUTIVE DIRECTOR (VIGILANCE),
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, EAST FORT P.O.,
THIRUVANANTHAPURAM - 695 023.

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3 THE ASSISTANT TRANSPORT OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
PARASALA P.O., THIRUVANANTHAPURAM - 695 502.

SRGP C S SHEEJA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 01.10.2019, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

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JUDGMENT

The petitioner, a Conductor Grade II, working in KSRTC under suspension, since 10.05.2019. The allegation against the petitioner would show that the petitioner, through whatsapp messages, circulated derogatory remarks against the Hon'ble Chief Minister of Kerala and others. Petitioner has also given charge memo. There are no other allegations other than this. The continuation of the suspension would be required, if there is threat for the on going enquiry. It is appropriate to refer judgment of this Court in ***K.K. Ramankutty V. State of Kerala and Another [1972 KHC 284]***, where it is laid down as follows:

“The suspension of a member of an All India Service or for that matter of any Civil servant against whom disciplinary proceedings are initiated is not to be intended as a punishment. The order of suspension should not normally depend merely on the gravity of charges but should depend upon a consideration of the question Whether it is necessary to keep him away from the post of office that he occupies. The effect of passing an order of suspension is to keep such officer

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away from his office for the time being and is intended to deprive him of the powers of the office temporarily. Its objective is to remove him from his sphere of influence during the investigation into and trial of the charges against him and this may be necessary to avoid embarrassment to the officer as well as his subordinates and associates in office. It may be that some or many of the records which are in his custody may have to be looked into. His colleagues or subordinates or sometimes even his superiors in office may have to be questioned. To keep the officer in his office when there is necessity to find out facts from people working under him or with him, and to examine papers in his office Would be causing considerable embarrassment, if not annoyance to him as well as to others. There may be cases where such suspension may be justified also to avoid misuse of the authority of his office, misuse which may result in obstruction to the proper trial of the charges against him. The situation could be met by the officer being kept under suspension or in some cases merely by transferring the officer away from the scene, the choice necessarily depending upon the exigencies of the situation.”

2. Following the judgment this Court in *Anil Kumar A.P. V. Mahathma Gandhi University and others [2018 (5) KHC 119]* had also taken the view, if materials related to suspension are already gathered, there is no reason to keep the employee under suspension. In such circumstances, there shall be a direction to the respondents to re-instate the petitioner

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forthwith subject to the disciplinary proceedings.

The Writ Petition is disposed as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

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APPENDIX

PETITIONER'S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE SUSPENSION ORDER
NO.VLD 2-15049/2019 DATED 10/5/2019
ISSUED BY THE 2ND RESPONDENT HEREIN. |
| EXHIBIT P2 | TRUE COPY OF THE MEMO OF CHARGES AND
THE STATEMENT OF ALLEGATIONS DATED
7/6/2019 ISSUED BY THE 2ND RESPONDENT
HEREIN TO THE WRIT PETITIONER. |
| EXHIBIT P3 | TRUE COPY OF THE REQUEST DATED
23/7/2019 SUBMITTED BY THE WRIT
PETITIONER BEFORE THE 2ND RESPONDENT
HEREIN. |
| EXHIBIT P4 | TRUE COPY OF THE CIRCULAR NO.78/P&A
C.2/2017.P&ARD DATED 31/1/2017 ISSUED
BY THE PERSONAL AND ADMINISTRATIVE
REFORMS DEPARTMENT, GOVERNMENT OF
KERALA. |
| EXHIBIT P5 | TRUE COPY OF THE STATUTORY APPEAL
DATED 31.08.2019 SUBMITTED BY THE WRIT
PETITIONER BEFORE THE MANAGING DIRECTOR
OF THE 1ST RESPONDENT |