
(2010) 09 KL CK 0395

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 28699 of 2010 (J)

Dr. R. Suresh

APPELLANT

Vs

The Chairman

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Mahatma Gandhi University Act, 1985 — Section 63(6)

Citation : (2010) 09 KL CK 0395

Hon'ble Judges : K.T. Sankaran, J

Bench : Single Bench

Advocate : Govind K. Bharathan, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

K.T. Sankaran, J.—The petitioner, while working as Professor and Head of the Department of Community Medicine, Athurasramom NSS Homoeo Medical College, was dismissed from service as per Ext.P27 order dated 18.8.2010.

2. Sri. Govind K. Bharathan, the learned senior Counsel appearing for the petitioner, submitted that Ext.P27 is the result of a clear victimisation and malafides. It is pointed out that on earlier occasions, the petitioner was proceeded against and he was dismissed from service. On those occasions, the matter was taken before the University Appellate Tribunal and before the High Court. On two occasions, the High Court set aside the orders of dismissal. It is also pointed out that the Honourable Supreme Court confirmed the orders passed by the High Court. It is pointed out that this is the third attempt and as per Ext.P27, the petitioner was dismissed from service. Learned senior Counsel pointed out that in the peculiar facts and circumstances of the case, the jurisdiction under Article 226 of the Constitution of India can be exercised in the case to interfere with the order of dismissal, on the ground of victimisation and malafides.

3. Sri. T.A. Shaji, learned Counsel appearing for the fourth respondent, submitted that the petitioner is having an effective alternative remedy to file an appeal against Ext.P27 order u/s 63(6) of the M.G. University Act. The further remedy after the matter is disposed of by the University Appellate Tribunal is to file a revision before the High Court. In these circumstances, he submitted that bypassing these remedies, the petitioner is not entitled to approach this Court under Article 226 of the Constitution of India.

4. To comprehend the contentions raised by the petitioner, it is necessary to look into the factual position, analyse the materials and, if necessary, consider the evidence. When an effective alternative remedy is provided, I do not think it would be proper to exercise the jurisdiction under Article 226 of the Constitution of India, bypassing the University Appellate Tribunal.

5. The learned senior counsel appearing for the petitioner submitted that if an appeal is filed before the University Appellate Tribunal, it may take a long time to get the matter disposed of. It is submitted that the petitioner having suffered much at the hands of the first respondent, if he is compelled to fight a litigation for several years, he would be put to great hardship. In the peculiar facts and circumstances of the case, I do not think that the University Appellate Tribunal will refuse a request for an early hearing of the appeal which the petitioner may file. If, in the appeal filed by the petitioner, a request is made to the University Appellate Tribunal, I am sure that the said request will be considered in the proper perspective.

Reserving the right of the petitioner to approach the University Appellate Tribunal u/s 63(6) of the M.G. University Act, the Writ Petition is closed.