
(2022) 07 KL CK 0138
In the High Court Of Kerala
Case No : Writ Appeal No. 439 Of 2022

Mani.U.

APPELLANT

Vs

Payannur Municipality

RESPONDENT

Date of Decision : 15-07-2022

Acts Referred:

Citation : (2022) 07 KL CK 0138

Hon'ble Judges : A.K.Jayasankaran Nambiar, J; Mohammed Nias C.P., J??
A.K.Jayasankaran Nambiar, J; Mohammed Nias C.P., J

Bench : Division Bench

Advocate : P.M.Pareeth, M.Sasindran, Bijoy Chandran

Final Decision : Disposed Of

Judgement

Mohammed Nias.C.P, J

1. The appellant challenges the dismissal of his writ petition filed challenging Ext. P7 order by which his services were terminated. The short facts necessary for the disposal of the appeal are as follows:-

2. The appellant, writ petitioner was appointed as ambulance driver in the Government Taluk Hospital, Payyannur on 17-6-2013 for a period of 179 days, which was subsequently renewed till the issuance of Ext. P7 order of termination. Termination order was based on the allegation of indiscipline and insubordination. The petitioner was re-instated on 4-6-2019 pursuant to the interim order passed in the writ petition. The Superintendent, Taluk Hosptal, Payyannur passed an order terminating the services of the appellant, Ext. P13 with effect from 17-1-2022, the date on which his contract comes to an end. The writ petitioner contended that the dismissal during the pendency of the writ petition was bad and that no opportunity was afforded to him to disprove the allegations and remove the stigma.

3. Before the learned Single Judge, the learned Government Pleader had produced the proceedings of the hospital management committee based on

which Ext.P13 order was issued which revealed that the committee decided not to renew the petitioner's appointment after the contract period and also to appoint persons from the existing rank list. It was also pointed out by the learned Government Pleader that the vehicle driven by the petitioner was sent for repairs for obtaining fitness certificate and the petitioner's services were not required. The learned Single Judge held that since Ext. P13 order was passed, which was not stigmatic or punitive, the employer gave up the proceedings that culminated in Ext. P7 and therefore, the petitioner cannot demand for a departmental enquiry into those allegations.

4. The request of the petitioner for continuance of service was not allowed by the learned single judge as the engagement on contract basis had expired and relying on the judgment of the Apex Court in Secretary of Karnataka and Ors v. Umadevi and Ors. [2006 (4) SCC 1]. Answering the issue as to whether the termination of the petitioner was stigmatic or not, the learned Single Judge found that since Ext. P13 order was passed which, recalled Ext. P7 proceedings, the petitioner's request to allow him to continue in service till an enquiry is conducted, cannot be accepted and in that view of the matter, dismissed the writ petition.

5. In this Writ Appeal, an affidavit has been filed by the 3rd respondent as directed by this Court on 8-6-2002 to produce the order withdrawing Ext. P7 order dated 6-5-2019 and accordingly the respondent had passed an order on 28-6-2022, copy of which is marked as Ext. R3 (a) which expressly withdraws the order dated 6-5-2019 (Ext. P7) and further stating that the petitioner's service is deemed to have come to an end on the expiry of the contract period. Under such circumstances, we find that a challenge to Ext. P7 does not survive. Ext. R3 (a) order makes it crystal clear that the petitioner is no longer engaged only because the contract period is over and for no other reason.

Recording the above, this Writ Appeal is closed.