
(2014) 10 KL CK 0051
In the High Court Of Kerala
Case No : Writ Appeal No. 1878 of 2010

P. Sukumaran

APPELLANT

Vs

The Director General of Police

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Citation : (2014) 10 KL CK 0051

Hon'ble Judges : Ashok Bhushan, Acting C.J.; A.M. Shaffique, J

Bench : Division Bench

Advocate : M. Sasindran, Advocate for the Appellant; Girija Gopal, Special Govt. Pleader, Advocate for the Respondent

Judgement

A.M. Shaffique, J.—This appeal is filed by the writ petitioner challenging the judgment of the learned Single Judge dated 19/07/2010 in W.P.C. No. 22431/2010. The writ petition was filed challenging Exts. P14 and P15 orders passed by the appellate authority by which punishment had been imposed on the petitioner barring an increment for one year without cumulative effect as per Ext. P14 and barring an increment for three years without cumulative effect as per Ext. P15.

2. The facts involved in the case would disclose that the petitioner had involved in disciplinary proceedings which ultimately led to imposing punishment on him. He did not challenge the same by filing appropriate appeals. However, during 2001, he submitted certain representations to the then Chief Minister, based on which the Director General of Police was directed to take further action. Representations were treated as appeals and as per proceedings Exts. P1 to P1(d), punishments were reduced to that of censure. Subsequently, by order dated 22/05/2003, petitioner was informed that the proceedings in respect of Exts. P1 to P1(d) were cancelled and he was served with Exts. P5 and P6 orders disposing of the appeals which, according to the petitioner, were concluded by Exts. P1 and P1(d). By subsequent order Ext. P8, the order of punishment imposed on him has been upheld.

3. Petitioner challenged Exts. P5 to P8 orders by filing W.P.C. No. 3395/2003 before this Court which was disposed of by Ext. P9 judgment. The impugned orders were set aside on the ground that those were passed without notice to the petitioner. Subsequent to the disposal of the writ petition, petitioner was served with notices, for which he had filed Exts. P11 and P13 replies which ultimately resulted in Exts. P14 and P15 final orders rejecting his appeals.

4. The main contention urged by the petitioner was that while disposing of Exts. P14 and P15, the appellate authority had not considered the matter in its proper perspective which results in violation of the principles of natural justice. That apart, it is contended that while reopening the matter which is concluded by Exts. P1 to P1(d), the petitioner was not given sufficient notice. It was also contended that the petitioner has not committed any acts of indiscipline and therefore there was no reason for the appellate authority to have imposed punishment.

5. The learned Single Judge, after noticing the entire pleadings of the parties, observed that since the appellate authority had confirmed the orders passed by the original authority after taking into consideration the averments in the show cause notice and replies, there is no reason for this Court to interfere with the orders passed and accordingly the writ petition was dismissed.

6. The learned counsel for the appellant, however, would submit that the respective contentions of the petitioner has not been considered by the appellate authority and therefore this is a fit case in which this Court should remit the matter back to the appellate authority for reconsideration of the entire issue. It was also contended that the reasons for imposing punishment was totally baseless and no enquiry was made by the appellate authority to come to such a conclusion.

7. The facts involved in this case would clearly disclose that the orders were passed imposing punishment on the petitioner in the year 2001. Petitioner did not challenge the same in appropriate proceedings as per Rules. Therefore, the order of the original authority had become final. Later, on the basis of the representations submitted by the petitioner, the matter was reconsidered and the punishments were reduced to censure as per Exts. P1 to P1(d). The said orders were revoked by the same authority and fresh proceedings were taken. When such fresh proceedings were taken, the matter came to be challenged before this Court and this Court permitted the appellate authority to come to a decision on the merits of the appeal. On that basis, the appellate authority had considered the entire issue. After having taken note of the allegations in the show cause notice and the relevant replies, the appellate authority had confirmed the orders passed by the original authority. When it is recorded by the appellate authority that they have verified the entire records relating to the allegations under which disciplinary action has been taken, we do not find any error in the decision making process and therefore there is no reason to interfere with the said orders passed by the appellate authority. Hence, we do not think that principles of

natural justice had been violated. It is the settled position of law that this Court should not interfere with the disciplinary proceedings initiated by the appellate authority unless there is illegality or arbitrariness in the order. We do not find any ground in the appeal warranting interference of this Court.

8. The learned counsel for the petitioner however submits that he had already filed a review petition before the Government against the orders passed. If the Government is inclined to consider the said review, it is always open for the Government to pass appropriate orders. We do not intend to make any reference to the right of the Government to pass any such orders in this appeal.

With the above observation, this writ appeal is dismissed.