
(1960) 01 KL CK 0061
In the High Court Of Kerala
Case No : O.P. No. 652 of 1958

Raghava Menon

APPELLANT

Vs

Inspector-General of Police and Others

RESPONDENT

Date of Decision : 21-01-1960

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1960) KLJ 376

Hon'ble Judges : S. Velu Pillai, J

Bench : Single Bench

Advocate : K.S. Sebastian, for the Appellant;

Final Decision : Dismissed

Judgement

S. Velu Pillai, J.—This is a petition under Article 226 by a police-constable, to quash the order by which he was dismissed from service. After an enquiry into a charge of misbehaviour against him by the Circle Inspector of Police, an order of dismissal from service, was first passed by the District Superintendent of Police. The petitioner thereupon petitioned the Government, on January 30, 1958, contending, that the District Superintendent of Police was not competent to punish him. Afterwards, the Inspector-General of Police quashed the order of dismissal passed by the District Superintendent of Police, and basing himself on the enquiry report, and after complying with the further formalities, including the issue of a show-cause notice, he passed the final order, now impugned, dismissing the petitioner from service. As seen from the counter-affidavit, the petitioner was served a memo on October 24, 1958, upon the petition referred to above which he had made to the Government, intimating him, that the irregularity in the District Superintendent's dismissing him from service, had been set right by quashing that order, and that if the petitioner is aggrieved by the final order of dismissal passed by the Inspector-General of Police, "it is open to him to appeal against the Inspector-General's order, if he is so advised". The petitioner, without preferring an appeal, has filed this petition. Although on the

merits, the petitioner has an arguable point that the Circle Inspector of Police, who conducted the enquiry against him, had no authority to do so, the preliminary objection raised by the learned Government Pleader, that by reason of the petitioner's not having exhausted his alternative remedy, he should not be granted any relief under Article 226, must prevail. For this objection to apply, it does not matter, that the remedy by way of appeal became barred subsequently by lapse of time. It is true, that the existence of an alternative remedy is not an insuperable bar to the exercise of the powers under Article 226 of the Constitution. As held by the Supreme Court in *U.P. State v Mohammad Nooh*, AIR 1958 S. C. 86, ordinarily there will be no interference under Article 226, where the aggrieved party does not avail himself of the alternative remedy granted by law. T.K. Joseph J. has applied this rule in *New Kerala Bus Transport, Cannanore v Regional Transport Authority*, 1959 K.L.J. 358 and I have myself applied the rule in *M/s. C. George Peter v Its Workmen*, 1959 K.L.J. 1416. In the present case I do not find anything, to take it out of the scope of the ordinary rule. The preliminary objection is therefore accepted. This petition fails and is dismissed, but without costs.