

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5562-5563 OF 2012

K.SREEDHARAN NAMBOOTHIRI

...APPELLANT(S)

VERSUS

STATE OF KERALA & ORS.

...RESPONDENT(S)

O R D E R

1. The appellant was appointed as non-hereditary Melsanthi of Peralassery Sree Subramanya Swami Temple. While in service disciplinary action was initiated against the appellant by a Memo of Charges dated 31.07.2002. The appellant denied the charges. Not satisfied, a disciplinary proceeding was held in respect of the charges levelled. A report of Enquiry dated 24.11.2003 by the Enquiry Officer was submitted which was accepted by the appellant's employers. Show cause notice dated 14.12.2003 was issued to the appellant proposing the punishment of

Signature Not Verified
Dismissal. The appellant submitted his reply to the Digitally signed by

Madhu Bala
Date: 2015.04.08
17:31:00 IST

Reason: said notice on 27.12.2003. It is at this stage that the Writ Petition out of which this appeal has

arisen was instituted before the High Court challenging the various actions taken against the appellant including the notice dated 14.12.2003 proposing the punishment of dismissal.

2. The appellant filed statutory appeals against his dismissal made during the pendency of the writ petition by order Dated 13.02.2004.

The statutory

appeals ended with an order of the Commissioner dated 16.11.2004 to the effect that the appellant would tender an unconditional apology to his employers and that the same would be duly considered. However, the apology tendered by the appellant was not favourably accepted by the employers who issued separate orders in this regard. The same were not challenged before the High Court by amendment of writ petition. However, it appears that the impugned order of dismissal/termination dated 13.02.2004 was challenged by the appellant before the High Court by means of an amendment. No order on the said amendment application appears to have been passed by the High Court. Instead the writ petition was dismissed taking note of the fact that the appellant was in the meantime terminated. A review petition was filed by the appellant which was also dismissed and giving rise to

3

the present proceeding.

3. We have heard learned counsels for the parties.

4. The High Court did not address itself to the merits of the order of dismissal dated 13.02.2004 in the light of the relevant facts and circumstances that has now been urged before us. In fact, as already noted, no order on the application filed for amendment of the writ petition so as to challenge the dismissal/termination order dated 13.02.2004 was passed by the High Court. A reading of the Charge Memo dated 31.07.2002 would go to show that out of the eight charges, Charge No. 3 pertains to improper conduct of the religious ceremonies in the Temple by the appellant. The said charge was answered in favour of the appellant. The remaining charges, in our considered view, are relatively less serious and it

is in the light of the above fact that the High Court according to us should have considered as to whether the punishment imposed i.e. dismissal is commensurate with the gravity of the charges levelled. It is also urged before us that some of the charges were vague. Admittedly the Charge Memo was not accompanied by a statement of allegations. On a reading of Charge No.

4

1 and even Charge No. 2, we are left with the impression that the said charges, indeed, are vague. Though the appellant did not specifically raise this issue before the disciplinary authority or the Enquiry Officer, we are of the view that in the facts of the present case the said aspect of the matter ought to receive our consideration. We have also noted that in the second appeal filed before the Commissioner, the Commissioner had passed certain directions i.e. apology to be tendered by the appellant which should be suitably considered by the employers. The aforesaid direction of the Commissioner must be understood to have been passed in the context of the gravity of the charges held to be proved. The approach of the respondents-employers in response to the said direction cannot be appreciated inasmuch as the order dated 15.12.2004 which has been brought on record would go to show that there was room for a more objective consideration of the case of the appellant, having regard to the nature of the charges held to be proved.

5. In the light of the above, we are of the view that the case of the appellant has not been fairly

5

dealt with by the respondents. We, therefore, set aside the order of the High Court as well as the

order of dismissal dated 13.02.2004 and remit the matter to Respondents (Manager/Trustee, Peralasserry Sree Subramanya Swami Temple) to re-consider the appropriate quantum of punishment that would meet the ends of justice. The said respondents will decide the matter in terms of the present direction within a period of two months from the date of receipt of a copy of this order.

6. The appeals are disposed of in the above terms.

.....J
[RANJAN GOGOI]

NEW DELHI
7TH APRIL, 2015

.....J.
[N.V. RAMANA]

6

ITEM NO.106

COURT NO.8

SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 5562-5563/2012

K.SREEDHARAN NAMBOOTHIRI

Appellant(s)

VERSUS

STATE OF KERALA & ORS.
(with office report)

Respondent(s)

Date : 07/04/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s) Dr. Kylashnatha Pillai, Sr. Adv.
Mrs. V.S. Lakshmi, Adv.
Mr. A. Venayagam Balan, Adv.

For Respondent(s) Mr. M. T. George, Adv.
Ms. Kavitha K.T., Adv.

Mr. Ramesh Babu M. R., Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

(MADHU BALA)
COURT MASTER
(Signed order is placed on the file)

(ASHA SONI)
COURT MASTER