

Kerala High Court

N.Sukumaran vs Union Of India on 3 March, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

OP.No. 16383 of 1999(A)

1. N.SUKUMARAN

... Petitioner

Vs

1. UNION OF INDIA

... Respondent

For Petitioner :SRI.R.RAJASEKHARAN PILLAI

For Respondent :SMT.BINDU K NAIR - ACGSC

The Hon'ble MR. Justice S.SIRI JAGAN

Dated :03/03/2009

O R D E R

S.SIRI JAGAN, J.

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O.P.No. 16383 of 1999.

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Dated this the 3rd day of March, 2009

J U D G M E N T

The petitioner was recruited as a pioneer in the General Reserve Engineering Force with effect from 5.2.1965. He continued in service till 15.7.1981, on which date he was removed from service as a punishment pursuant to proceedings initiated under the Central Civil Service (Classification, Control and Appeal) Rules, for participating in a demonstration against the Government. The appeal against that order also failed. Subsequently, he put in an application for compassionate allowance as provided under Rule 41 of Central Civil Service Pension Rules, 1972, which reads as follows:

"41. Compassionate allowance.

(1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity:

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension.

(2) A compassionate allowance sanctioned under the proviso to su-rule (1) shall be less than the amount of Rupees three hundred and seventy-five per mensem."

However, the same was rejected by Ext.P6 order. Ext.P6 order is under challenge before me.

2. I have considered the contentions of the petitioner.

3. Admittedly the petitioner was removed from service. Under Rule 41(1) of the Rules, the Government Servant who is removed from service shall forfeit his pension and gratuity. Although the petitioner would contend that he is entitled to compassionate allowance as per the proviso to the said rule, I am of opinion that proviso to Rule 41(1) is a discretion vested with the competent authority to sanction compassionate allowance. The petitioner cannot claim such allowance as of right. The proper authority has taken a decision to deny the petitioner that benefit. I do not think that such denial amounts to violation of any right of the petitioner. I am unable also to find that the discretion vested in the authority who passed the impugned order has not been exercised properly. Therefore, I do not find any merit in the original petition and accordingly, the same is dismissed.

Sd/-

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S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge

S.SIRI JAGAN, J.

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O.P.No. 16383 of 1999-A

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J U D G M E N T

3rd March, 2009