



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BASANT BALAJI

TUESDAY, THE 12TH DAY OF MARCH 2024 / 22ND PHALGUNA, 1945

WP(C) NO. 9331 OF 2024

PETITIONER(S) :

VINEETH V. V.

AGED 40 YEARS

S/O C. VAMADEVAN, ASST. ENGINEER (SUSPENSION), RESIDING
AT DARPPANAM, HOUSE NO. 554/A, VATTAVILA, KALLAYAM P.O,
TRIVANDRUM, PIN - 695043

BY ADVS.

JOHNSON GOMEZ

ANN MARIA SEBASTIAN

SANJAY JOHNSON

JOHN GOMEZ

ARUN JOHNY

DEEBU R.

ABIN JACOB MATHEW

RESPONDENT(S) :

- 1 KERALA STATE ELECTRICITY BOARD LTD.
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004
- 2 CHIEF ENGINEER (HUMAN RESOURCES MANAGEMENT)
KERALA STATE ELECTRICITY BOARD LTD., VYDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004
- 3 PRESIDING OFFICER
THE INTERNAL COMPLAINTS COMMITTEE, KSEB LTD., PATTOM,
THIRUVANANTHAPURAM, PIN - 695004
- 4 JOINT LABOUR COMMISSIONER (PLANNING)
OFFICE OF THE LABOUR COMMISSIONER, THOZHIL BHAVAN,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN - 695033
- 5 REGIONAL JOINT LABOUR COMMISSIONER
COLLECTORATE ROAD, KAANKOTHU MUKKU, KOLLAM,
PIN - 691007
- 6 XXXXXXXXXXXX



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7 HARILAL V.
ASST. EXECUTIVE ENGINEER, SCADA/DMS PROJECT
MANAGEMENT WING, REGIONAL IT UNIT, VYDYUTHI
BHAVANAM, PATTOM, TRIVANDRUM, PIN - 695004
BY ADV.
SRI.ANTONY MUKKATH, SC
SMT.MARY BEENA JOSEPH

THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON 12.03.2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



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BASANT BALAJI, J.**W.P.(C) No.9331 of 2024****Dated this the 12th day of March 2024****JUDGMENT**

The petitioner has approached this Court for quashing Exts.P7, P13, P16 and P19 and for reinstating the petitioner back to service. A complaint was filed against him on 19.12.2022 and proceedings were initiated by the Internal Complaints Committee (hereinafter referred to as ICC) and Ext.P7 report was filed. Pursuant to Ext.P7 report, the 2nd respondent issued Ext.P8 charge memo dated 27.06.2023. Ext.P13 order was passed on 10.08.2023 appointing Smt.Anitha G. Nair, Executive Engineer, Electrical Division, Attingal as Enquiry Officer treating the report of the ICC as a preliminary one as the allegations raised against the petitioner were proved.



2. Counsel appearing for the petitioner submitted that, though proceedings were initiated by the ICC, neither the complaint nor the documents were served on the petitioner which is mandatory under Rule 7 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (herein after referred to as 'POSH Rules') which reads as follows:

“7. Manner of inquiry into complaint.-

(1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).

(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex- parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three



consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present."

3. Rule 7(2) specifically states that, on receipt of the complaint, the Complaints Committee shall send one of the copies to the respondent and the inquiry should be done in accordance with the principles of natural justice. Counsel for the petitioner taken me through Ext.P7 inquiry report which shows that there are violations of the principles of natural justice. The complaint was not served on him. Moreover the witnesses were examined in his absence without allowing the petitioner to cross-examine them. Therefore, Ext.P7 is not in tune with Rule 7 of the POSH Rules. When Ext.P13 is initiated on the basis of Ext.P7 ICC report, necessarily the inquiry ought to have been



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conducted in tune with Rule 7 of the POSH Rules. When the said Rule is violated, it vitiates the inquiry.

4. Therefore, I have no hesitation to hold that Ext.P7 is issued in violation of the principles of natural justice and also against Rule 7 of the POSH Rules.

Therefore, Ext.P7 stands quashed and the 3rd respondent is directed to constitute a new Committee in tune with Section 4 and Sub Clause (5) of the POSH Act as the petitioner has a contention that the President of the Committee already constituted is facing disciplinary proceedings. The entire proceedings shall be completed in accordance with law strictly following the principles of natural justice and Rule 7 of the POSH Rules after giving the petitioner an opportunity of hearing as well, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

Sd/-
BASANT BALAJI
JUDGE

DM



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APPENDIX OF WP (C) 9331/2024

PETITIONER EXHIBITS

- EXHIBIT P2 A TRUE COPY OF ORDER NO. EBVS 2/31/2022 ISSUED BY THE RESPONDENT NO. 2 DATED 24-12-2022
- EXHIBIT P3 A TRUE COPY OF THE REPRESENTATION DATED 09-01-2023
- EXHIBIT P6 A TRUE COPY OF THE RESPONSE DATED 26-04-2023 SUBMITTED BY THE PETITIONER BEFORE THE INTERNAL COMPLAINTS COMMITTEE
- EXHIBIT P8 A TRUE COPY OF THE CHARGE SHEET NO. EBVS 8(2)/31/2022 DATED 27-06-2023 ISSUED BY THE CHIEF ENGINEER, KSEBL
- EXHIBIT P9 A TRUE COPY OF THE APPEAL DATED 08.08.2023 FILED BY THE PETITIONER, BEFORE REGIONAL JOINT LABOUR COMMISSIONER, KOLLAM, CHALLENGING EXHIBIT P7
- EXHIBIT P10 A TRUE COPY OF THE STAY PETITION DATED 8.08.2023 FILED BY THE PETITIONER BEFORE REGIONAL JOINT LABOUR COMMISSIONER, KOLLAM, PRAYING TO STAY THE OPERATION OF EXHIBIT P7 REPORT
- EXHIBIT P11 A TRUE COPY OF THE GOVERNMENT ORDER NO. G.O. (MS.) NO. 66/2016/LBR ISSUED BY THE GOVERNMENT OF KERALA NOTIFYING THE APPELLATE AUTHORITY, DATED 07-04-2016
- EXHIBIT P12 A TRUE COPY OF THE RELEVANT PAGES OF KSEB EMPLOYEES (CC&A) REGULATIONS, 1969



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- EXHIBIT P13 A TRUE COPY OF THE ORDER NO. EBVS.8(2)/31/2022/346 DATED 10-08-2023 ISSUED BY RESPONDENT NO. 2
- EXHIBIT P14 A TRUE COPY OF THE JUDGMENT IN WP(C) 36845/2023 PASSED BY THIS HONORABLE COURT, DATED 14-11-2023
- EXHIBIT P15 A TRUE COPY OF THE LETTER NO. ED-ATL-EE1/2024/463(2) DATED 03-02-2024 ISSUED BY EXECUTIVE ENGINEER, ATTINGAL
- EXHIBIT P16 A TRUE COPY OF THE ORDER IN G.A. 1447/2023 DATED 26-12-2023
- EXHIBIT P17 A TRUE COPY OF THE APPEAL BEFORE JOINT LABOUR COMMISSIONER (PLANNING), DATED 08.01.2024
- EXHIBIT P18 A TRUE COPY OF THE APPLICATION FOR STAY OF EXHIBIT P7 REPORT, BEFORE JOINT LABOUR COMMISSIONER (PLANNING)
- EXHIBIT P19 A TRUE COPY OF THE ORDER IN LCO NO. 250/2024/IR2 PASSED BY RESPONDENT NO. 4 ON 12-02-2024

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE