പതിമൂന്നാം കേരള നിയമസഭ
പതിനാലാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നമിടാത്ത നിയമസഭാചോദ്യം നമ്പർ 3821

20/07/2015-ൽ മറുപടിക്ക്

മുന്നിയൂർ ഹയർ സെക്കന്ററി സ്കൂൾ അദ്ധ്യാപകന്റെ ഭാര്യക്ക് ജോലി

ചോദ്യം
ശ്രീ. എ. പ്രദീപ്കുമാർ
ശ്രീ. കെ. കുഞ്ഞമ്മത് മാസ്റ്റർ
ശ്രീ. കെ. കുഞ്ഞിരാമൻ (തൃക്കരിപ്പൂർ)
പ്രൊഫ. സി. രവീന്ദ്രനാഥ്

ഉത്തരം
ശ്രീ. പി.കെ. അബ്ദുറബ്ബ്,
വിദ്യാഭ്യാസ വകുപ്പ് മന്ത്രി

(എ) മാനേജരുടെ പീഡനവും കള്ളക്കേസും മൂലം ആത്മഹത്യ ചെയ്ത മലപ്പുറം ജില്ലയിലെ മുന്നിയൂർ ഹയർ സെക്കണ്ടറി സ്കൂൾ അദ്ധ്യാപകനെ നേരത്തെ സർവ്വീസിൽ നിന്നും പിരിച്ചു വിട്ട മാനേജരുടെ നടപടി ഡിപിഐ റദ്ദാക്കിയിട്ടുണ്ടോ; വിശദാംശം ലഭ്യമാക്കാമോ;

(എ) ഉണ്ട്. മലപ്പുറം ജില്ലയിലെ മുന്നിയൂർ ഹയർ സെക്കന്ററി സ്കൂളിലെ ആത്മഹത്യ ചെയ്ത അദ്ധ്യാപകൻ കെ.കെ. അനീഷിനെ നേരത്തെ സർവ്വീസിൽ നിന്നും പിരിച്ചുവിട്ട മാനേജരുടെ നടപടി, പൊതു വിദ്യാഭ്യാസ ഡയറക്ടറുടെ 18.05.2015-ലെ വി1/61806/14/ഡിപിഐ നമ്പർ ഉത്തരവ് പ്രകാരം റദ്ദാക്കിയിട്ടുണ്ട്. പകർപ്പ് അനുബന്ധമായി ചേർക്കുന്നു..

(ബി) പ്രസ്തുത അദ്ധ്യാപകന്റെ ഭാര്യക്ക് സർക്കാർ സർവ്വീസിൽ ജോലി നൽകുന്നതിന് നടപടി സ്വീകരിക്കുമോ?

(ബി) നിലവിലുള്ള നിയമപ്രകാരം പ്രസ്തുത മാനേജ്മെന്റിന്റെ കീഴിലുള്ള സ്കൂളിൽ മാത്രമേ ടിയാന്റെ ഭാര്യയ്ക്ക് നിയമനം നല്കുവാൻ വ്യവസ്ഥയുള്ളു.

സെക്ഷൻ ഓഫീസർ

PROCEEDINGS OF THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM
Present : Gopalakrishna Bhat IAS

Sub:- General Education – Aided – Removal from service - Appeal filed by Sri. K. K. Aneesh, HSA (Social Science), MHSS Munniyoor - Allowed – Orders Issued –reg.

Read:- 1. Appeal filed by Sri. K. K. Aneesh Dated: 19.07.2014.
2. Letter Dated: 05.08.2014 of the Manager, MHSS Munniyoor
3. Order No. 10/2013-14 Dated: 13.06.2014 of the Manager MHSS Munniyoor

ORDER NO. V1/61806/2014/DPI DATED:18/05/2015

Sri. K. K. Aneesh, HSA (Social Science), MHSS Munniyoor (now late) had preferred an appeal before the undersigned as per letter read as above against the order No, 10/2013-14 Dated: 13.06.2014 of the Manager, MHSS, Munniyoor for removing him from the service. In his appeal he has requested to set aside the order of the Manager because the order of the Manager is actuated by malafides, victimization, violation of the principles of natural justice and the entire decision making process of the Manager is vitiated by non-compliance of various provisions under the K.E. Act & Rules. According to him the charges are falsely foisted, never established or proved in the enquiry, under Rule 75, Chapter XIV A of the Rule and therefore, the order No. 10/2013-14 is liable to be set aside in the interest of justice.

A hearing in this context was conducted on 22.04.2015. Notices were sent to all parties concerned. The Manager, PTA President, the Headmistress and other teachers were absent. All others were present. The Manager submitted a letter Dated: 20.04.2015 with a copy of the order of the Hon'ble High Court of Kerala in W.P.(C). 12118/2015(2). The order says, " no action shall be taken against the petitioner (the Manager) without obtaining orders from this court". This is persuant to Ext. P10, which is a show cause notice issued from this office for taking action against the Manager. The present case before the undersigned is an appeal filed by the late appellant. Hence there is no bar in disposing the appeal petition. The appeal filed under Rule 88 of the Chapter XIV A of the KER, enquiry report of the District Educational Officer, enquiry report of Smt. Indira, Project Officer, of this Directorate and the order of the Manager were examined.

It is seen that Sri. K. K. Aneesh (now late) was suspended for 15 days from service for the unfortunate incident happened on 05.02.2013 and then the suspension was got extended. A charge memo was also issued. Persuant to the memo, an enquiry was also ordered. Accordingly the District Educational Officer, Tirur conducted the enquiry and filed a report.

Disciplinary proceedings were initiated against the appellant for imposing major penalties. For conducting enquiry the procedures furnished under Rule 75 Chapter XIV A has to be followed. On the basis of the enquiry report a hearing was conducted on 16.08.2013 and it was recommended to initiate disciplinary proceedings against late Sri. Aneesh on 31.08.2013. On close verification of the enquiry report it is found that report has the standard of a preliminary enquiry report only. The enquiry officer has not made any findings against the allegation levelled against Sri. Aneesh. He has no findings that the appellant had committed a misconduct as alleged in the charge memo. Instead, the enquiry officer has stated that there is an inconsistency about the spot where the incident took place. In the complaint of Sri. Mohammad Ashraf, FTM, who was said to be assaulted by Sri. K. K. Aneesh states that he was washing the office at 12 noon on 05.02.2013. In the hearing the witness deposed that the cleaning was being done in the laboratory. None of the witnesses deposed that they saw Sri. Aneesh assaulting Sri. Mohammad Ashraf. He further states in the report that nobody heard Sri. Aneesh calling MR. Ashraf "son of dog". The enquiry officer further reports that though the incident took place at 12 noon; it was not discussed in the staff meetings held at 3 PM. Sri. Mohammad Ashraf was present in the school upto 3 PM and he then left with the permission of Headmaster to Manjeri.

Sri. Mohammad Ashraf had produced a wound certificate issued by a doctor at Ferook. The District Educational Officer neither enquired about the genuineness of the certificate nor examined the doctor. Ferook is about 35 KM away from Munniyoor. Thirurangadi Govt. Hospital is just 1.5. KM away from the school. Instead of taking medical aid from the nearby Thirurangadi hospital, he undertook a journey of about 35 KM for getting the medical certificate. The District Educational Officer has mentioned in

the report that a number of dramatic incidents has been taken place after the alleged assault on Sri. Mohammad Ashraf.

No witnesses had been classified as prosecution and defence witnesses by the Enquiry Officer. No cross examination was done as contemplated in the Rule 75 Chapter XIV A. The veracity of the documents produced by the parties has not been examined. There is no finding to substantiate that the alleged assault and the use of abusive language had taken place. The deposition of the witnesses and the documents mentioned have not been enclosed with the report. Instead he made a recommendation to the Manager for initiating a detailed enquiry. Therefore the enquiry report has come down to the status of a preliminary enquiry report. The District Educational Officer has not gone through the Rule 75 Chapter XIV A. He was not aware of the procedures to be followed in the enquiry for imposing a major penalty. The delinquent was not given chance to cross examine the prosecution witnesses. The enquiry was not conducted in accordance with the procedure prescribed under Rule 75 Chapter XIV A. In this case, in view of the finding that the enquiry has not been conducted in accordance with the procedure prescribed under Rule 75 Chapter XIV A, the competent authority can only decline sanction for imposing major penalty like the one proposed by the Manager, St. Rafhans High School Vs State of Kerala 2002(2) KLT 125. The violation of the mandatory provision stipulated in Rule 75 Chapter XIV A, by the District Educational Officer is the root of this case.

The enquiry report submitted by Smt. Indira, Project Officer also states among other facts that,

1. There are no eye witnesses to the incident.
2. The alleged weapon used by Sri. Aneesh is a leg of broken bench as stated by Sri. Mohammad Ashraf, but is a iron rod in the FIR.
3. Observations of the doctor who issued certificate is doubtful.

She has further observed that the punishment given by the Manager is very high when compared to the gravity of the alleged incident. She has recommended to re-instate the appellant in service.

In the light of above facts and circumstances the order of the Manager removing the appellant from service is hereby set aside. Appellant is liable to be deemed to have been in service till his death and is eligible for all service benefits.

Appeal is disposed accordingly.

DIRECTOR OF PUBLIC INSTRUCTION

1. Manager, MHSS, Moonniyoor, Moonniyoor. P.O, Pin-676311
2. Headmaster, MHSS, Moonniyoor, Moonniyoor. P.O, Pin-676311
3. The District Educational Officer, Thirurangadi
4. The District Educational Officer, Tirur
5. Sri. K. K. Kumaran, (F/o Sri. K. K. Aneesh) Kumar Nivas, Kammalakunnummal, Edachery North P O, Vadakara (Via) Kozhikkode - 673502
6. The Deputy Director of Education, Malappuram
7. Stock File / Office Copy