



GOVERNMENT OF KERALA

Abstract

Fisheries and Ports Department- Judgement dated 4-7-2023 in WP(C) No. 21580/2023 filed by Shri.K.H.Latheef- Complied with -Orders issued

FISHERIES AND PORTS (E) DEPARTMENT

G.O.(Rt)No.468/2025/F&P Dated,Thiruvananthapuram, 01-07-2025

- Read 1 Judgement dated 02.09.2010 in WP(C) No. 26471/2010 filed by Shri.K.H.Latheef
- 2 Representation dated 20/5/2023 submitted by Shri.K.H.Latheef before the Secretary,Port Department
- 3 Judgement dated 4-7-2023 in WP(C) No. 21580/2023 filed by Shri.K.H.Latheef
- 4 Lr Nos. D1-5449/2012 dated 20/12/2023 & HOKMB-TVM/367/2024-D1 dated 27/4/2024 & 3/68/2024 from the Chief Executive Officer, Kerala Maritime Board, Thiruvananthapuram.

ORDER

As per the judgement dated 04-07-2023 in WP(C) No. 21580/2023 filed by Shri. K.H. Latheef, the Hon'ble High Court has disposed of the case with a direction to the 1st respondent (State of Kerala represented by Secretary, Ports) to consider and pass appropriate orders on Ext. P4 after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within three months from the date of receipt of a certified copy of this judgement.

2. The brief history of the case is that the petitioner had executed an agreement to take 3 barges on hire with the 2nd respondent, i.e., Port Officer, Neendakara. The petitioner took them on hire for the purpose of carrying Sulphur and Rock Phosphate to FACT. The petitioner made modifications to the barges to suit the carriage of Sulphur and rock phosphate, which incurred a huge amount. The petitioner requested the set-off and adjustment of the hire instalments of the barges against the value of improvements he had

made. The Hon'ble High Court, as per the judgement dtd. 2/09/2010 in W.P.(C) No. 26471/2010, directed the 2nd respondent to consider the representation and take a decision. The 2nd respondent rejected his claim. The petitioner filed WP(C) No. 21580/2023 before the Hon'ble Court to consider Ext. P4, submitted to the Government.

3. In pursuance of the judgement dated 04-07-2023 in WP(C) No. 21580/2023, the Additional Secretary, Port Department, heard the petitioner on 06-02-2024. Officers from Kerala Maritime Board attended and the advocate of the petitioner participated in the hearing. During the hearing, the officers from Kerala Maritime Board informed that three self-propelled barges were hired out to Shri. K.H. Latheef for transporting Sulphur and rock phosphate to FACT on the basis of the agreement executed with the Port Officer, Neendakara. To carry more cargo, the hirer made modifications to the barges. As per Special Condition 13 of the agreement, the hirer had to carry out alterations on the barge, if necessary, at their own cost with prior sanction/approval from the Port Department, and the barges should be returned in their original condition on completion of the hire period. The contractor carried out alterations to the vessels without getting permission from the Port Department and failed to return the barges in their original condition. The Port Department had estimated an amount of Rs. 10,49,072/- for restoring the vessels to their original condition; however, the amount was not actually spent. As per Special Condition 13 of the agreement, the hirer had to carry out alterations on the barge, if necessary, at their own cost with prior sanction/approval from the Port Department, and the barges should be returned in their original condition on completion of the hire period. The Port Department did not give any permission or approval for the repairs carried out by him, as claimed. Several notices were issued to him to remit the amount, but he failed to respond or remit the amount. Hence, revenue recovery proceedings were initiated against him.
4. The request of the petitioner was to waive the amount of Rs. 10,49,072/- imposed on him, which was claimed to be the estimated cost for restoring the barges. The Chief Executive Officer, Kerala Maritime Board, in his report stated that the restoration work had not been done and the barges had already been disposed of as scrap

and an amount of Rs. 33,22,071/- was received. In these circumstances, the request of the petitioner to waive the amount imposed on him deserves to be considered.

5. Government have examined the matter in detail. The petitioner has spent Rs. 25 lakhs to make alterations to the boat. The allegation against him is that he could not restore the barges to their original condition. The Port Department imposed a penalty amounting to Rs. 10,49,072/- for not restoring the barges. But the department did not restore the barges and instead disposed of them as scrap, receiving Rs. 33,22,071/-. From this, it is clear that the Government had not suffered any loss. Hence, the amount imposed as a penalty on the petitioner, i.e., Rs. 10,49,072/-, is waived off.
6. Thus, the judgment of the Hon'ble High Court, read as 3rd paper above, is complied with accordingly.

(By order of the Governor)

SYAM T K

JOINT SECRETARY

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