

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.93/1997

Monday this, the 17th day of March, 1997.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR.K.RAMAMOORTHY, ADMINISTRATIVE MEMBER

R.Ramachandran Nair,
(Former Chief Secretary to
the Government of Kerala),
Maidan Villa,
Hindu Mission Road,
Thiruvananthapuram-1.

...Applicant

(Advocate Mr.M.P.R.Nair)

vs.

1. The Government of Kerala
represented by the
Chief Secretary to the Government,
Govt.Secretariat,
Thiruvananthapuram-1.

2. Shri C.P.Nair,
Chief Secretary to the
Government of Kerala,
Government Secretariat,
Thiruvananthapuram-1.

..Respondents

(Mr. M.K.Damodaran, Advocate General)
(Advocate Mr.C.A.Joy (R1))

The Application having been heard on 12.3.1997, the Tribunal
on the 17th March, 1997 delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant Shri R.Ramachandran Nair is a member
of the Kerala cadre of the Indian Administrative Service. He
is the seniormost officer in the Indian Administrative Service
in the whole of the country and even senior to Shri
T.S.R.Subramanian, the Cabinet Secretary. He was appointed
Chief Secretary to the Government of Kerala on 1.3.1994 and
continued as such till 16.6.1996. He entered on leave on
17.6.96. From 1.1.1994 to 30.6.96 the applicant was also

functioning as the Vice Chancellor of Sree Sankaracharya University of Sanskrit. While the applicant was on leave, the Government of India appointed Shri T.S.R.Subramanian, who is junior to the applicant in service as Cabinet Secretary to the Government of India with effect from 1.8.1996. After availing of leave till 30.11.96 claiming that the applicant who is senior to Shri T.S.R.Subramanian became entitled to a post under the Central Government, equal in rank, pay and status to that of the Cabinet Secretary, the applicant informed the first respondent as also the Central Government that he was not extending his leave any further, that he was reporting for duty in order to get an appropriate posting under the Central Government, equal in rank, pay and status to that of the Cabinet Secretary, Government of India and in his letter addressed to the Secretary, Department of Personnel, Ministry of Personnel, Public Grievances and Pension, New Delhi, requested for a posting. This letter was forwarded by the first respondent to the Government of India on 7.12.96. While the applicant was awaiting a posting under the Central Government, he was served with the impugned order dated 10.1.97 by which the Government of Kerala placed the applicant under suspension from service purportedly in exercise of powers conferred by sub rule (1) and sub rule (3) of Rule 3 of All India Services (Discipline and Appeal)Rules,1969 on the grounds that disciplinary proceedings against him were contemplated and five criminal cases registered against him were under investigation.

2. It is aggrieved by this order that the applicant has filed this application praying for issue of a writ of certiorari or other appropriate writ, direction or order and to quash the order dated 10.1.97. It is alleged in the

application that Shri C.P.Nair, the second respondent, who is presently the Chief Secretary in the State of Kerala has been on inimical terms towards him as his attempt to become the Chief Secretary sidetracking the applicant from the year 1992 onwards did not succeed, that on his becoming the Chief Secretary in June, 1996 succeeding the applicant, he started concocting false cases against the applicant making use of his position as Chief Secretary, misguiding and misinforming the Council of Ministers and exerting his influence on all the limbs of the Government. The registration of the FIRs against the applicant, the applicant states, was a result of the conspiracy hatched at the concerted effort of the second respondent and Shri K.J.Joseph who was appointed as the Director of Vigilance overlooking the seniority of as many as 10 senior officers through the influence of the second respondent and the contemplated disciplinary proceedings is also, according to him, manipulated by Shri C.P.Nair with a view to keep the applicant out of a posting commensurate with his seniority and position in the Indian Administrative Service. It is further alleged that Shri K.J.Joseph as also Shri O.P.Thomas who conducted the investigation against the applicant were both, for some reason or the other, biased against the applicant. The registration of five FIRs simultaneously and contemplation of the disciplinary proceedings being the result of a scheme engineered by Shri C.P.Nair out of enmity and ulterior motives, there is no justification for placing the applicant under suspension, alleged the applicant. The applicant assails the impugned order mainly on the following grounds:

- a) As the applicant has ceased to hold any post under the Government of Kerala from 17.6.96 on which date he proceeded on leave, and also since he became

entitled to be appointed on a post under the Government of India, equal in rank, pay and status to that of the Cabinet Secretary with effect from 1.8.96 when his junior Shri T.S.R.Subramanian was appointed as Cabinet Secretary to the Government of India, the first respondent ceased to have any power to place the applicant under suspension as applicant on the date of the impugned order was not serving in connection with the affairs of the State of Kerala.

b) As an order of suspension is passed only to remove the incumbent from a specific office or a specific field of activity temporarily where the position occupied by him is such that his continuance in office is likely to embarrass the conduct of an investigation into his acts of omission and commission, there is no requirement of placing the applicant under suspension as he was not holding any post on the date on which the impugned order was passed.

c) There is no material before the first respondent to satisfy themselves that it was desirable to place the applicant under suspension, the order is unsustainable.

d) The impugned order of suspension having been manipulated and engineered by the second respondent who is on inimical terms towards the applicant, the order is vitiated by malafides.

3. We have with meticulous care gone through the application and the annexures thereto and have heard at length Shri M.P.R.Nair, the learned counsel appearing for the

applicant. We have also heard the learned Advocate General, who appeared for the State of Kerala.

4. Learned counsel of the applicant Shri M.P.R.Nair argued that as the applicant has not sought leave beyond 30.11.96 and as the post of Chief Secretary, which is the only post in the cadre on which the applicant could be appointed has since been filled by appointment of the second respondent and as the applicant has also become entitled to be appointed on a post under the Central Government equal in rank, pay and status to that of the Cabinet Secretary to the Government of India, the applicant cannot be considered to be serving under the Government of the State of Kerala and therefore the first respondent had no competence to place him under suspension. In support of this argument, Shri Nair made the following submissions. The applicant has held the highest post in the cadre, namely, the post of Chief Secretary, State of Kerala till 16.6.96. Now, the second respondent Shri C.P.Nair has been appointed to hold that post. There is, therefore, no post in the cadre on which the applicant, in accordance with his rank and seniority, can be posted. The Central Government has with effect from 1.8.1996 promoted Shri T.S.R.Subramanian, who is junior to the applicant in the service as Cabinet Secretary. The applicant therefore has become entitled to be appointed on a post equal in rank, pay and status to that of the Cabinet Secretary with effect from 1.8.96 and he had on 15.11.96 made a representation to the Government of India to consider his appointment on such a post. Under these circumstances, the State of Kerala is not in a position to offer the applicant a post commensurate with his seniority, rank and status. Since the applicant has not applied for leave beyond 30.11.96 and as the post of Chief Secretary to the State of Kerala has already been filled, the applicant is not holding any post

under the State to be treated an officer serving in connection with the affairs of the State of Kerala.

5. We do not find any substance in this argument. It is not correct to say that as there is no other post in the cadre, equal in rank, pay and status to that of the Chief Secretary and as the post of Chief Secretary has already been occupied by the second respondent, the State of Kerala is not in a position to offer a suitable posting to the applicant. Rule 4 of the Indian Administrative Service (Cadre Rules) 1954 reads as follows:

" 4. Strength of Cadres -(1) The strength and composition of each of the cadres constituted under rule 3 shall be as determined by regulations made by the Central Government in consultation with the State Governments in this behalf and until such regulations are made, shall be as in force immediately before the commencement of these rules.

(2) The Central Government shall, at the interval every three years, re-examine the strength and composition of each such cadre in consultation with the State Government or the State Government concerned and may make such alterations therein as it deems fit:

Provided that nothing in this sub-rule shall be deemed to affect the power of the Central Government to alter the strength and composition of any cadre at any other time:

Provided further that the State Government concerned may add for a period not exceeding one year (and with the approval of the Central Government for a further period not exceeding two years) to a State of Joint Cadre one or more posts carrying duties and responsibilities of a like nature to cadre posts, "

The second proviso of the rule quoted above enables the State Government to add one or more posts to the cadre carrying duties and responsibilities of a like nature to cadre posts for a period not exceeding one year and with the concurrence of the Central Government for a further period not exceeding two years. If such a post is added to the cadre, a cadre officer can be posted on that post after declaring equivalence as required under rule 9 of the Indian Administrative Service (Pay) Rules. The learned counsel for the respondents informed us that as a matter of fact, the State Govt.

has as on 4.12.96 posted the applicant on an ex-cadre post of Commissioner for Administrative Reforms created for a period of one year declaring that the post is equivalent in pay, status and responsibilities to the cadre post of Chief Secretary and that though twice the order was transmitted to the applicant's address by registered post, the same was returned unserved and that the third attempt to serve on him has already been made. A copy of the order of the Government of Kerala, General Administration(Special A)Department No.G.O.(Rt) No.9834/96/GAD dated 4.12.96, the relevant part of which reads as follows:

"Sanction is accorded for the creation of an ex-cadre post of Commissioner for Administrative Reforms for a period of one year. The post is declared equivalent in pay, status and responsibilities to the cadre post of Chief Secretary to Government under rule 9 of the IAS (Pay) Rules..

2. The following transfers and postings are also ordered:

i) Shri R.Ramachandran Nair IAS(KL.1961),on return from leave to be Commissioner for Administrative Reforms against the post created in para 1 above."

has been placed by the learned counsel for the respondents for our perusal. The above rule position and the order clearly establishes that the Kerala Government is competent to create a post equivalent in pay, rank, status and responsibilities to that of the Chief Secretary to Government and that in fact an order to that effect has been made by the State of Kerala. The fact that the applicant, an officer belonging to the Kerala cadre of the Indian Administrative Service has sought not to extend the leave further, does not make the State Government unable to post him. The applicant a member of cadre has no right to declare independent from the cadre.

6. That the junior of the applicant in service Shri T.S.R.Subramanian has been appointed as Cabinet Secretary to the Government of India does not enable the applicant to claim that he is entitled to be appointed under the Government of India on a post equivalent in rank and status to that of the Cabinet Secretary. Appointment to the posts under the Central Government, above the rank of Joint Secretary to the Government of India are made by method detailed in the Central Staffing Scheme. The posts of Additional Secretaries, Special Secretaries and Secretaries to the Government of India and equivalent thereto are not posts belonging to the cadre of the Indian Administrative Service. The paramount consideration in making appointment to such posts is the need of the Central Government. Seniority in the cadre of the Indian Administrative Service is not the criterion for such appointments. Since the post of Cabinet Secretary to the Government of India is not a post falling in the cadre of the Indian Administrative Service, it cannot be considered to be a promotional post. Therefore, the applicant has no right to claim that he is entitled to be appointed on a post equivalent to the post of Cabinet Secretary because Shri T.S.R.Subramanian his junior in the service has been appointed Cabinet Secretary. The applicant has not alleged in the application that he has not been considered for empanelment to the posts of Secretary to the Government of India or equivalent post. He has also not challenged the appointment of Shri T.S.R.Subramanian on the post of Cabinet Secretary. The fact that the applicant is senior to Shri T.S.R.Subramanian does not ipso facto entitle him to claim a posting under the Central Government equivalent in rank and status to that of Cabinet Secretary.

In that view of the matter also, the case of the applicant that it is only the Central Government, who can offer him a posting is untenable. As the applicant is still a member of the Kerala cadre of the Indian Administrative Service, the case of the applicant that he is not serving in connection with the affairs of the State of Kerala, is meaningless. Therefore, the first respondent, the State of Kerala is competent to place the applicant under suspension in exercise of powers conferred under Rule 3 of the All India Services (Discipline and Appeal) Rules, 1969(hereinafter referred to as 'the Rules').

7. The learned counsel of the applicant next argued that since an order of suspension is passed only to remove the incumbent from a specific office or a specific field of activity temporarily where the position occupied by him is such that his continuance in office is likely to embarrass the conduct of the investigation into his acts of omission and commission, as the applicant is not holding any post under the State of Kerala, there is no requirement in placing the applicant under suspension. This argument also has no force because in terms of sub rule 1 and sub rule 3 of Rule 3 of the Rules, to place a member of the service under suspension, it is not absolutely necessary that the member should be on the date on which the order of suspension is passed, holder of any specific post in the cadre. Even if an officer is awaiting a posting, there is no embargo in placing him under suspension. It is profitable to extract Rule 3 of the Rules for the convenience of reference. It reads as follows:

"3. Suspension - (1) If, having regard to the circumstances in any case and, where articles of charge have been drawn up, the nature of the charges, Government of a State or the Central Government, as the case may be, is satisfied that it is necessary or desirable to place under suspension a member of the Service, against whom disciplinary proceedings are contemplated or are pending, that Government may -

(a) If the member of the Service serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government, request that Government to place him under suspension,

pending the conclusion of the disciplinary proceedings and the passing of the final order in the case:

Provided that, in cases, where there is a difference of opinion , -

(i) between two State Governments, the matter be referred to the Central Government for its decision;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail:

Provided further that, where a State Government passes an order placing under suspension a member of the Service against whom disciplinary proceedings are contemplated, such order shall not be valid unless, before the expiry of a period of forty-five days from the date from which the member is placed under suspension, or such further period not exceeding forty-five days as may be specified by the Government for reasons to be recorded in writing, either disciplinary proceedings are initiated against him or the order of suspension confirmed by the Central Government.

(1-A) If the Government of a State or the Central Government, as the case may be, is of the opinion that a member of the Service has engaged himself in activities prejudicial to the interests of the security of the State, that Government may -

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government requests that Government to place him under suspension,

till the passing of the final order in the case:

Provided that, in cases, where there is a difference of opinion -

(i) between two State Governments, the matter shall be referred to the Central Government for its decision;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail.

(2) A member of the Service, who is detained in official custody whether on a criminal charge or otherwise for a period longer than forty-eight hours, shall be deemed to have been suspended by the Government concerned under this rule.

(3) A member of the Service in respect of, or against, whom an investigation, inquiry or trial relating to a criminal charge is pending may, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge, if the charge is connected with his position as a member of the Service or is likely to embarrass him in the discharge of his duties or involves moral turpitude.

(4) A member of Service shall be deemed to have been placed under suspension by the Government concerned with effect from the date of conviction of, in the event of conviction for a criminal offence, he is not forthwith dismissed or removed or compulsorily retired consequent on such conviction provided that the conviction carries a sentence of imprisonment exceeding forty-eight hours.

Explanation - The period of forty-eight hours referred to in sub-rule(4) shall be commuted from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service under suspension is set aside in appeal or in review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(6) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service is set aside or declared or rendered void in consequence of or by the decision of a Court of Law, and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the member of the Service shall be deemed to have been placed under suspension by the Central Government from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely a technical grounds without going into the merits of this case.

(6-A) Where an order of suspension is made, or deemed to have been made by the Government of a State under this rule detailed report of the case shall be forwarded to the Central Government ordinarily within a period of fifteen days of the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.

(7)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a member of the Service is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may for reasons to be recorded by him in writing direct that the member of the Service shall continue to be under suspension with the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order."

It is evident from the rules, quoted above, that there is no requirement that on the date of issuance of the order of suspension, the member of the service, should be holding any particular post. In this case, the applicant took leave while he was holding the post of Chief Secretary. After the expiry of leave, the applicant did not apply for extension of leave. On 4.12.96 the first respondent has posted the applicant as Commissioner for Administrative Reforms, an ex-cadre post created for a period of one year and declared equivalent to the post of Chief Secretary. It is not correct to say that the applicant was not holding any post. The non-receipt of the order of appointment and posting does not nullify the posting.

8. The next argument of the learned counsel of the applicant is that as there was no material at all with the first respondent to satisfy themselves that it was desirable to place the applicant under suspension, the order of suspension is not sustainable. The impugned order of suspension of the applicant is a composite order on two grounds, namely, sub rule 1 of Rule 3 and sub-rule 3 of Rule 3 of the Rules. The reason for suspension under sub rule 1 stated in the order, reads as follows:-

"Whereas Shri R.Ramachandran Nair IAS(KL.1961) while functioning as Commissioner & Secretary to Government, Forest & Wild Life Department during the period from 23.5.1990 to 28.2.1994 and as Chief Secretary from 1.3.1994 to 15.6.1996, has failed to return 157 files of the Secretariat relating to various Departments and a number of Annual Confidential Reports on various officers even after he ceased to be Commissioner & Secretary, Forests and Wild Life and Chief Secretary to Government of Kerala, without proper authority and valid reasons;

And whereas his conduct in this regard constitutes serious dereliction of duty and misconduct;

And whereas disciplinary proceedings against the said Shri R.Ramachandran Nair are contemplated in respect of his conduct as aforesaid;"

The ground of suspension under sub-rule 3 of Rule 3 of the Rules stated in the order reads as follows:

" And whereas, while functioning as Commissioner & Secretary to Government, Forest & Wild Life Department Shri R.Ramachandran Nair was appointed as Vice Chancellor of Sree Sankaracharya University of Sanskrit and he continued to simultaneously function as Chief Secretary to Government and Vice Chancellor of Sree Sankaracharya

University of Sanskrit;

And whereas five criminal cases have been registered under the provisions of the Prevention of Corruption Act, 1988 and the Indian Penal Code against the said Shri R.Ramachandran Nair in relation to his conduct and actions in the matter of purchase of land, award of contracts and appointments to the Sree Sankaracharya University of Sanskrit while functioning as the Vice Chancellor of the University, causing huge pecuniary loss amounting to over Rupees One Crore to the University and resulting in unlawful gain to himself and his associates;

And whereas the aforesaid criminal charges involving moral turpitude are under investigation;"

That disciplinary proceedings against the applicant are contemplated is not denied by the applicant in the application. The fact that five criminal cases have been registered against the applicant for offences under the provisions of Prevention of Corruption Act, 1988, and the Indian Penal Code is also not in dispute. It was after taking into consideration of the circumstances of the contemplated disciplinary proceedings as also the nature of criminal cases under investigation against him, that the first respondent has passed the impugned order placing the applicant under suspension being satisfied that his continuance in service is prejudicial to public interest and detrimental to the interest of the State. It cannot therefore be seriously contended that there was no material at all before the first respondent to satisfy themselves that it was desirable to place the applicant under suspension. While ordering of suspension under sub rule 1 of Rule 3 of the Rules, the satisfaction of the Government has to be arrived at, having regard to the circumstances of the case, where the charges have not been drawn up and to the nature of charges, where

the charges have been drawn up. A member of the service can be placed under suspension under sub-rule 3 at the discretion of the Government when investigation, enquiry or trial relating to a criminal charge is pending against the member of the service. In this case, there are as many as five criminal cases registered against the applicant for offences under the Prevention of Corruption Act and Indian Penal Code alleging causing of huge pecuniary loss amounting to over Rupees one crore to the Sree Sankaracharya University of Sanskrit and resulting in unlawful gain to himself and his associates. The Government of Kerala feeling that the above said charges involved moral turpitude at its discretion has decided to place the applicant under suspension. We do not find anything wrong in the action of the first respondent. The decision was taken to place him under suspension under sub rule 1 having regard to the circumstances of the case and under sub rule 3 of Rule 3 of the Rules as criminal cases involving moral turpitude have been registered against him. The learned counsel of the applicant argued that the suspension of the applicant under sub-rule 1 of Rule 3 has become inoperative as the Central Govt. has not confirmed it within 45 days and as no charge has so far been framed. This was not a ground on which the order has been challenged. There is no allegation to this effect also. However, as the suspension under sub-rule 3 of Rule 3 does not require any confirmation, Even if the suspension is not confirmed by the Central Govt. or charge has not been framed, still the suspension under sub-rule 3 of Rule 3 will be operative. The learned counsel argued that ^{as} the order to place the applicant under suspension was made on two grounds, if the suspension on one ground becomes inoperative , the entire order would automatically become inoperative. We do not agree with this argument. Even

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that a composite order was passed placing the applicant under suspension under sub rule 1 and sub-rule 3 of Rule 3 , the grounds are distinct and separate. Even if the suspension under sub-rule 1 of Rule 3 becomes inoperative, the suspension under sub-rule 3 of Rule 3 will still be operative. If criminal cases are under investigation or trial at the discretion of the State Government, the officer can be placed under suspension.

9. The learned counsel of the applicant next argued that the impugned order of suspension is vitiated by malafides. The allegation of malafides is directed against the second respondent who has been impleaded in his personal capacity as also to one Shri K.J.Joseph, the Director of Vigilance and Shri O.P.Thomas, who conducted the preliminary investigation. It is alleged that the second respondent who is junior to the applicant has been desperately trying to become the Chief Secretary as early as in the year 1992 by endeavouring to get the applicant sidetracked to some other post but could not succeed to achieve this end. Having ultimately been appointed as Chief Secretary, while the applicant was on leave, the second respondent has ^{been} making use of his position as Chief Secretary misguiding and misinforming the Council of Ministers, states the applicant. The criminal cases registered against the applicant are the result of a scheme of the second respondent with the assistance of Shri K.J.Joseph whom he had got appointed as Director of Vigilance overlooking the claims of as many as ten of his seniors by manipulation. The applicant has stated that there was no truth in the allegations contained in the FIRs and that the registration of the FIRs was engineered through Shri O.P.Thomas, the Circle Inspector of Police who had reason to be inimical towards the applicant.

10. We are not in these proceedings called upon to decide the truth or falsity of the allegations contained in the FIRs registered against the applicant. There is no prayer for quashing of the FIRs and such a prayer cannot be made before the Tribunal also. Therefore, the allegations that the FIRs were manipulated and engineered at the behest of the second respondent is not at all relevant in deciding the question whether the impugned order of suspension is vitiated by malafides. Whether the criminal cases were rightly registered and whether the applicant is guilty of any offence, is a matter that will have to be ultimately decided by the Criminal Court. The Tribunal cannot go into that question. Once a criminal case has been registered against a member of the service and the State Government, in its discretion, decides to place the member of the service under suspension, the Tribunal will not go into the question whether the registration of the FIRs was a bonafide action or a motivated one. To assail the order of suspension on the ground of malafides, there should be an allegation that the authority which placed the applicant under suspension, disabled itself from acting fairly on account of malafides. It was not the second respondent who placed the applicant under suspension, though he has signed the order by order of the Governor. The decision to place the applicant under suspension was taken by the Government of Kerala and not by Shri C.P.Nair. Apart from stating that Shri C.P.Nair has been from 1992 onwards desperately trying to become the Chief Secretary sidetracking the applicant and that after he became the Chief Secretary succeeding the applicant, he has been trying to ruin the career of the applicant, no specific or tangible reason as to why Shri C.P.Nair was on inimical terms

with the applicant, has been stated in the application. Further, the mental attitude of Shri C.P.Nair, the second respondent has nothing to do with the action of the State of Kerala in placing the applicant under suspension. Therefore, the case of the applicant that the order of suspension is vitiated by malafides, does not appeal to us.

11. In the result in the light of the above discussion, we do not even prima facie find anything in this application which deserve further consideration. The application, therefore, fails and the same is dismissed, leaving the parties to bear their own costs.

Dated the 17th March, 1997.



K. RAMAMOORTHY
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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