

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE B.P.RAY**

**THURSDAY, THE 7TH DAY OF FEBRUARY 2013/18TH MAGHA 1934**

**OP.No. 37527 of 2002 (P)**  
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**PETITIONER(S):**  
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**P.N.JOB, PROPRIETOR, SUNITHA  
DIESEL SALES AND SERVICE, VYTIJA JUNCTION, KOCHI-17.**

**BY ADVS.SRI.M.RAJASEKHARAN NAYAR  
SRI.JOHN K.JOSEPH(SAJAN)  
SMT.K.N.RAJANI  
SMT.NITHYA.K.**

**RESPONDENT(S):**  
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- 1. DEPUTY LABOUR COMMISSIONER, ERNAKULAM  
(APPELLATE AUTHORITY UNDER SHOPS AND COMMERCIAL  
ESTABLISHMENTS ACT).**
- 2. SMT.K.D.MARY, KUTTAZHATHU HOUSE,  
MARADU P.O., (VIA), TRIPUNITHURA  
ERNAKULAM.**

**R1 BY GOVERNMENT PLEADER SMT.MAYA  
R2 BY ADV. SRI.K.RAMAKUMAR (SR.)**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON  
07-02-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**tss**

APPENDIX

PETITIONER'S EXHIBITS:-

P1:- COPY OF THE LETTER DTD. 16.2.1998 OF 2ND RESPONDENT.

P2:- COPY OF THE LETTER TO 2ND RESPONDENT DTD. 15.3.1998 ISSUED BY THE PETITIONER.

P3:- COPY OF THE LETTER ISSUED TO THE 2ND RESPONDENT DTD. 27.3.1998 BY THE PETITIONER.

P4:- COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE COUNSEL FOR THE 2ND RESPONDENT DTD. 10.6.1998.

P5:- COPY OF THE LETTER DTD. 25.3.1999 OF 1ST RESPONDENT.

P6:- COPY OF THE APPEAL MEMORANDUM DTD. 21.8.1998 IN SA. NO.24/1998.

P7:- COPY OF THE WRITTEN STATEMENT DTD. 23.4.1999 IN SA. 24/1998.

P8:- COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT IN OP. 12178/2000 BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM .

P9:- COPY OF THE ORDER OF THE 1ST RESPONDENT DTD. 5.9.2002.

P10:- COPY OF EXT.D7 BEFORE THE 1ST RESPONDENT DTD. 1.4.1998 BY SREELATHA.

RESPONDENT'S EXHIBITS:-

NIL

//TRUE COPY//

P.A. TO JUDGE

tss



**B.P.RAY, J.**

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**O.P.No.37527 OF 2002**  
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***Dated this the 7<sup>th</sup> day of February, 2013***

**JUDGMENT**

Petitioner is running an establishment called Sunitha Diesel Sales and Service having branch offices at Tripunithura and other places. Second respondent was an employee under the petitioner. This original petition is filed with a prayer to call for the records relating to Ext.P9 order and quash it by a writ in the nature of certiorari or other appropriate writ or order.

2. Learned counsel for the petitioner submits that none of the points raised by the petitioner was considered by the first respondent while holding that second respondent is liable to be reinstated or in alternative a sum of Rs.50,000/- is to be paid as compensation. Learned counsel for the petitioner also submits that the Ext.P9 order is vitiated on the ground that the appeal can be entertained only after delay is condoned. Moreover, the findings in Ext.P9 are vague, tentative and perverse.

3. Heard both sides and perused the materials available on record.

4. Considering the long lapse of time and the fact that the petitioner served for about 16 years, I suggested the parties to settle the matter out of court. Learned counsel appearing for both sides submit that a reasonable amount can be fixed by this court as compensation in lieu of reinstatement. Therefore, I modify the award by reducing the amount of compensation to Rs.25,000/-. In pursuance to an interim direction issued by this court Rs.10,000/- was paid and the balance Rs.15,000/- has to be paid within one month from the date of receipt of a copy of this judgment. The gratuity amount shall also be paid within two months thereafter. The entire amount shall be paid to respondent No.2 by an account payee bank draft by the end of March 2013.

Original petition is disposed of.

**B.P.RAY, JUDGE**

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**B.P.RAY, J.**

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**O.P.No.37527 OF 2002**  
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**JUDGMENT**

***Dated 7<sup>th</sup> February, 2013***