

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

OP.No. 6025 of 2003 (P)

PETITIONER(S):

**JOHNSON V.,
KUTTIKATTU HOUSE, VADAPURAM P.O., NILAMBUR
MALAPPURAM DISTRICT (L.D.TYPIST, MARTHOMA COLLEGE
CHUNGATHARA).**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENT(S):

- 1. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.**
- 2. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, THIRUVANANTHAPURAM.**
- 3. THE MANAGER,
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.**

R1-R2 BY SENIOR GOVERNMENT PLEADER SMT.M.R.RAJASREE

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP.No. 6025 of 2003 (P)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF THE PROCEEDINGS OF THE R3 DATED 1/3/2000

P2: COPY OF THE ORDER PASSED BY THE R2 DATED 9/6/97

P2(A): COPY OF THE ORDER PASSED BY THE R2 DATED 21/2/2000

P3: COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE R1

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.M. Shaffique, J.

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O.P.No. 6025 of 2003

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Dated this, the 9th day of March, 2015.

J U D G M E N T

Petitioner has approached this Court seeking the following reliefs:

- “i) Issue a writ of mandamus or any other appropriate writ, direction or order, directing the first respondent to approve the service of the petitioner from 1.4.2000 to 20.7.2001 in the post of L.D. Typist under the 3rd respondent.
- ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 3rd respondent to disburse salary to the petitioner for the period he had worked as L.D. Typist from 1.4.2000 to 20.7.2001.”

2. The facts involved in the original petition would disclose that the petitioner was appointed as L.D. Typist in a leave vacancy. His initial appointment was for the period from 7.2.1994 to 17.7.1995, which was extended up to 31.3.2000 by Ext. P1 dated 1.3.2000. The Manager extended the appointment of the petitioner for a further period from 1.4.2000 to 20.7.2001, subject to the approval of Director of Collegiate Education, Trivandrun. The petitioner submits that he had worked in the aforesaid post for the above period, but he was not paid salary and therefore he has approached this Court seeking the reliefs

as prayed for.

3. Counter affidavit has been filed by respondents 1 and 2 inter alia stating that since the period of appointment from 1.4.2000 to 20.7.2001 comes under the ban period, approval cannot be granted. It is stated that the Government had issued order banning appointments during the said period in Government and Private Aided Colleges consequent on the Pre-degree de-linking for the period from 3.6.1997 to 17.9.2004. It is also stated that it was on account of a mistake that the earlier period of the petitioner was approved.

4. Having regard to the fact that the appointment of the petitioner by the Manager in terms of Ext. P1 was subject to approval by the Director of Collegiate Education and no such approval had been granted, especially on account of the ban imposed as per Government Orders in the matter, I do not think that there is any illegality in the authorities in not approving the appointment of the petitioner.

5. Counsel for the petitioner submits that the petitioner was appointed in a leave vacancy with effect from 1.4.2001. He was in continuous employment and it is not a case where the ban imposed by the Government applies to his case. This contention cannot be

sustained, especially, on account of the fact that the very appointment of the petitioner from 1.4.2000 to 20.7.2001 in terms of Ext. P1 was subject to approval by the Director of Collegiate Education, who could not have approved the appointment on account of the ban imposed by the Government.

Under such circumstances, I do not think that the petitioner is entitled to the reliefs sought for. Accordingly, the original petition is dismissed.

Sd/-

A.M. Shaffique, Judge.

Tds/

A.M. Shaffique, J.

O.P.No. 6025 of 2003

J U D G M E N T

9th day of March, 2015.

O.P.No. 6025 of 2003

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