

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

W.P.(C).No. 84 of 2005 (I)

PETITIONER:

**K.R. JAYAKRISHNAN,
LECTURER IN ELECTRONICS AND COMMUNICATION ENGINEERING,
COLLEGE OF ENGINEERING, MUNNAR.**

**BY ADVS. SRI. C.P. SUDHAKARA PRASAD (SR.)
SRI. ELVIN PETER P.J.
SRI. S. RAMESH
SRI. P.N. SANTHOSH
SRI. NAVEEN. T
SRI. SUNIL T.G.
SRI. ANTONY BENDICT**

RESPONDENT(S):

- 1. CENTRE FOR CONTINUING EDUCATION KERALA,
REPRESENTED BY ITS DIRECTOR, KOWDIAR P.O.,
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR,
CENTRE FOR CONTINUING EDUCATION KERALA,
KOWDIAR P.O., THIRUVANANTHAPURAM.**
- 3. P. RAMESH,
LECTURER IN ELECTRONICS AND COMMUNICATION ENGINEERING,
COLLEGE OF ENGINEERING, MUNNAR.**
- 4. K.K. BABU,
LECTURER IN ELECTRONICS AND COMMUNICATION ENGINEERING,
COLLEGE OF ENGINEERING, MUNNAR.**
- 5. PRAVEEN JOSEPH,
LECTURER IN ELECTRONICS AND COMMUNICATION ENGINEERING,
COLLEGE OF ENGINEERING, MUNNAR.**

**R1 BY ADVS. SRI. K. ANAND
SMT. LATHA KRISHNAN
R BY ADV. SRI. N. NAGARESH, ASST. SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P-1: TRUE COPY OF THE NOTIFICATION NO. EC/EST/2/2002 DATED 30.12.2002
ISSUED BY THE 1ST RESPONDENT.**

**EXT.P-2: TRUE COPY OF B.TECH DEGREE CERTIFICATE DT. 29.05.2002 OF THE
PETITIONER.**

**EXT.P-3: TRUE COPY OF THE RANK LIST FOR THE POST OF LECTURERS IN
ELECTRONICS AND COMMUNICATION ENGG.**

**EXT.P-4: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 15.03.2004 FILED BY
RESPONDENTS 1 AND 2 IN W.P. (C) NO. 2984/2004.**

**EXT.P-5: TRUE COPY OF THE JUDGMENT DATED 02.04.2004 IN W.P. (C) NO.
2984/2004 OF THIS HONOURABLE COURT.**

**EXT.P-6: TRUE COPY OF ORDER NO. EC/EST/2/2002 DATED 08.12.2004 ISSUED BY
THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

PA TO JUDGE

A.M.SHAFIQUE, J.

W.P.(C)No.84 of 2005

Dated this the 23rd day of June, 2015

JUDGMENT

The petitioner challenges Ext.P6 to the extend that he claims that the appointment should take effect from 09.01.2004 on the date when the third respondent was offered appointment. The facts involved in the case would disclosed that the first respondent had prepared Ext.P3 Rank List for the post of Lecturers in Electronics and Communication Engineering, in College of Engineering, Munnar. The third respondent claimed appointment under Ezhava quota. He was Rank No.2. Though he was offered the employment, he could not produce the Non Creamy Layer Certificate. The matter was taken up before this Court in W.P.(C)No.2984/2004 which resulted in judgment dated 02.04.2004. In the said writ petition, the petitioner claimed appointment to the aforesaid post as Sri.P.Ramesh did not join in the said post for want of

Non Creamy Layer certificate.

2. The first respondent had contended that time was granted to Sri.Ramesh to produce the certificate as he did not produce the same within a reasonable time. In the meantime, since the first rank holder under the general merit quota did not join, Sri.Ramesh was appointed under the general merit quota. However, in the judgment dated 02.04.2004 in W.P.(C) No.2984/2004, the management has agreed to appoint the petitioner in the Ezhava quota. On the basis of the aforesaid judgment, the appointment order was issued to the petitioner on 08.12.2004. The petitioner submits that he should have been appointed on the date on which third respondent was appointed.

3. Though no counter affidavit has been filed by the first respondent, the learned counsel submits that the petitioner's right to get appointment had arisen only after the judgment in W.P.(C)No.2984/2004. This was a case where the first rank holder did not accept the appointment and time was granted to Ramesh, the third respondent to produce the Non Creamy

Layer Certificate. Since he could not produce the same, being the 2nd rank holder he was given in the open merit quota seat. Only at that stage, a situation had arisen where the petitioner could take a claim.

4. Having regard to the fact that, the order of appointment has been issued only on 08.12.2004 after the judgment in W.P.(C)No.2984/2004, since the Management had taken a decision to appoint the petitioner in the Ezhava quota while making appropriate changes on account of the fact that the third respondent did not produce the Non Creamy Layer Certificate, the petitioner cannot claim that he should be given seniority on the same day. There is no case for the petitioner that his seniority had been affected in any manner. Under such circumstances, I do not think that the petitioner is entitled to claim any benefit on the basis of the fact that there was delay in appointment.

5. The learned counsel for the petitioner submits that the petitioner was given adhoc appointment from 14.01.2004 to 07.05.2004 on a consolidated pay of ₹8,000/- per month which

was terminated on 07.05.2004. It might be true that the petitioner had worked for some time during the relevant period, but the fact remains that he was not entitled to be appointed under the Ezhava vacancy, since the appointment of Sri.Ramesh was not completed by that time.

Having regard to the aforesaid factual situation, I do not think that the petitioner is entitled for any relief in this writ petition. Therefore, this writ petition is dismissed.

Sd/-
A.M.SHAFIQUE
JUDGE

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//TRUE COPY//

P.A. TO JUDGE