

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1073 of 2006 (C)

PETITIONER :

**T.S. GIRISH KUMAR, PEON,
VIVEKANANDA COLLGE, KUNNAMKULAM,
S/O. LATE T.K. SREEDHARAN, THYVALAPPIL HOUSE,
P.O. PARAPPUR, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.RAVINDRAN (SR.)
SRI.HARIKRISHNAN RAVINDRAN**

RESPONDENTS :

- 1. STATE OF KERALA, REP. BY ITS SECRETARY,
HIGHER EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.**
- 3. COCHIN DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
DEVASWOM OFFICE, THRISSUR.**

**R1 & R2 BY GOVERNMENT PLEADER MR. A. MUHAMMED SAVAD
R3 BY ADV. SRI. KRISHNA MENON, SC,
BY ADV. SRI.M.RAMESH CHANDER, SC,
BY ADV. SRI.K.GOPALAKRISHNA KURUP,SC,**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-01-2015 ALONG WITH WPC NO. 4638/2006, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE CIRCULAR ISSUED BY THE R1 DT NIL.
- P2: COPY OF THE APPOINTMENT ORDER DT 28/11/2000
- P3: COPY OF THE COMMUNICATION OF THE PRINCIPAL DT 26/2/2001.
- P4: COPY OF THE NOC BY UNIVERSITY DT 3/11/2001.
- P5: COPY OF THE LETTER OF 2ND RESPONDENT OT 1ST RESPONDENT DT 14/12/2001.
- P6: COPY OF THE ORDER G.O.(RT) NO. 634/02 H.EDN DT 18/5/2002.\
- P7: COPY OF THE JUDGMENT IN OP NO. 16683/2002 DT 17/3/2003.
- P8: COPY OF THE STAFF PATTERN.
- P9: COPY OF THE ORDER DT 27/9/2004.
- P10: COPY OF THE RELEVANT EXTRACT OF THE GOVERNMENT ORDER DT 17/9/2004.
- P11: COPY OF THE ORDER OF THE R2 DT 6/8/2005.
- P12: COPY OF THE JUDGMENT IN WPC NO. 29289/04 DT 3/10/2005.
- P13: COPY OF THE ORDER OF THE R1 DT 5/1/2006.
- P14: COPY OF THE GOVERNMENT ORDER DT 20/8/2010

RESPONDENT'S EXHIBITS :

- EXT.R2(A): COPY OF THE G.O.(MS) NO. 261/10/H.EDN. DT 20/8/2010.

//TRUE COPY//

P.A. TO JUDGE

bp

A.M.SHAFFIQUE, J

W.P.C.Nos.1073 & 4638 of 2006

Dated this the 16th day of January 2015

J U D G M E N T

Petitioners in these *writ petitions* were appointed as Sweeper with effect from 28/11/2000 and Scavenger from 01/01/2001 onwards. According to them, their appointments were on compassionate grounds.

2. Though the management requested for approval of the appointments, the same was not done which ultimately resulted in Ext.P13 order in W.P.C.No.1073 of 2006 and Ext.P11 order in W.P.C.No.4638 of 2006.

3. During the pendency of the *writ petition*, Government had reconsidered the entire matter and by order passed by Higher Education (D) Department G.O.(M.S.) No.261/2010/H/Edn. Dated 20/08/2010, appointments of the petitioners have been regularised with effect from the date of such order without retrospective effect.

4. The only question that remains to be considered in

these *writ petitions* is whether the petitioners should be given regularisation from the date of their appointments which is also mentioned in the order of regularisation.

5. Perusal of Ext.P13 order in W.P.C.No.1073/2006 indicates that when the Director of Collegiate Education submitted a report and the revised staff fixation statement was prepared, it was found that nine posts of last grade servants were in excess in these colleges including the college in which the petitioners were working. Under such circumstances, it was clear that the appointments were not made on the basis of available vacancies. That apart, it is mentioned that there was a ban of appointments during the Pre-Degree delinking stage. When it is clearly found by the authorities that there was excess staff, it was not possible for the management to have appointed the petitioners. Though the petitioners were appointed, in so far as their appointments were not regularised and the Government has now, as a special case, decided to regularise their

appointments, petitioners are bound by the conditions imposed in the order of regularisation. The Government, having made the regularisation as a concession towards the petitioners who were working for quite a long time, cannot be asked to regularise them from a previous date than what is contemplated.

Under such circumstances, I do not think that there is any merit in the contentions raised in the *writ petition* and accordingly the same is dismissed.

(A.M.SHAFIQUE, JUDGE)

jsr

