

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 1756 of 2005 (H)

PETITIONER:

**DR.K.T.MARY, M.SC., PH.D.,
(DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, RTD).
W/O.DR.C.S.JAMES, PLOT NO.1, NEHRU NAGAR
THRISSUR-6.**

**BY ADVS.SRI.B.SAJEEV KUMAR
SRI.M.K.THANKAPPAN**

RESPONDENTS:

- 1. STATE OF KERALA, REP. BY THE
PRINCIPAL SECRETARY TO THE DEPARTMENT OF HIGHER
EDUCATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM.**
- 3. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOTTAYAM.**
- 4. THE PRINCIPAL, C.M.S. COLLEGE,
KOTTAYAM.**
- 5. THE ACCOUNTANT GENERAL OF KERALA,
THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT. M.J. RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE JUDGEMENT DATED 04.01.02 PASSED BY THIS HON'BLE COURT IN O.P. 3817/2001
- P2 : TRUE COPY OF THE STATEMENT DTD 31.08.2002 FILED ON BEHALF OF THE 1ST RESPNDENT IN CCC 436/02
- P3 : TRUE COPY OF THE LETTER DTD 23.05.2002 OF THE 4TH RESPONDENT
- P4 : TRUE COPY OF THE LETTER DTD 29.08.2002 OF THE 4TH RESPONDENT
- P5 : TRUE COPY OF THE LETTER NO.B1/1067/2003/COLL. EDN. DTD 10.03.03 OF THE 2ND RESPONDENT AND THE CHARGE MEMO ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- P6 : TRUE COPY OF THE REPLY DTD 26.03.03 SUBMITTED BY THE PETITIONER
- P7 : TRUE COPY OF THE LETTER NO.3308/F32003/H.EDN, DTD 09.04.03 ISSUED BY THE 1ST RESPONDENT DIRECTING THE 2ND RESPONDENT TO FIX THE LIABILITY ON THE PETITIONER WITHOUT EVEN CONSIDERING EXT.P6 REPLY
- P8 : TRUE COPY OF THE ORDER NO.C-1-1635/2003/COLL. EDN.DTD 07.06.2003 ISSUED BY THE 2ND RESPONDENT FIXING THE LIABILITY
- P9 : TRUE COPY OF THE LETTER NO.A1-4182/03 DTD 12.11.03 FORWARDED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT IN RESPECT OF THE PENSIONER
- P10 : TRUE COPY OF THE ORDER DTD 04.07.03 ISSUED BY THE ACCOUNTANT GENERAL SANCTIONING THE PENSIONARY BENEFITS
- P11 : TRUE COPY OF THE ORDER DTD 13.08.03 SANCTIONING GRATUITY (PART) BY THE ACCOUNTANT GENERAL
- P11(A) : TRUE COPY OF THE ORDER DTD 07.07.04 SANCTIONING THE REMAINING EXTENT OF GRATUITY BY THE ACCOUNTANT GENERAL
- P12 : TRUE COPY OF THE LETTER DTD 03.08.04 FORWARDING THE LIABILITY CERTIFICATE IN THE CASE OF THE PETITIONER BY THE 2ND RESPONDENT TO THE CONCERNED SUB TREASURY OFFICER.
- P12(A) : TRUE COPY OF THE LIABILITY CERTIFICATE NO:J3/15210/03/COLL.EDN DTD 10.08.04 ISSUED BY THE 2ND RESPONDENT

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 1756 of 2005 (H)

Dated this the 11th day of September, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P8 order passed, by which the petitioner, along with the Accounts Officer, Junior Superintendent and L.D. Clerk of the office of the Deputy Director of Collegiate Education, were mulcted with a liability of Rs.96,220/-, being the interest paid to three pensioners for reason of non-compliance of the directions in Ext.P1 judgment within time.

2. The entire controversy arose with respect to the direction in Ext.P1 judgment, in a petition filed by retired employees of private colleges. The controversy raised therein was with respect to the arrears to be paid as per the revision of scales effected, while they were in service. The Government's contention against the payment of arrears was negatived and it was directed that the arrears should be paid within a period of two months from the date of

receipt of a copy of the judgment, failing which interest liability would be cast on the Government, at the rate of 9% per annum from 21.12.1999, i.e. the due date of payment of the arrears.

3. Obviously, the payments were made only on 30.4.2002. The contention of the petitioner who filed a statement in the contempt petition produced at Ext.P2 is that the copy of the judgment was received in the office of the Director of Collegiate Education on 25.1.2002 and the arrears was to be paid on or before 24.3.2002. The arrears were paid to the petitioners in per Ext.P1 judgment only on 30.4.2002. One of the reasons stated is that the Government officers were on strike between 6.2.2002 to 11.3.2002. However, that cannot be a justification, since between 25.1.2002 and 6.2.2002 the petitioner had sufficient time to make the payment. Further, it is also to be noticed that the specific ground on which liability has been mulcted on the petitioner is the fact that, the

petitioner had not moved an application for extension of time before this Court pointing out the strike and other reasons, in explanation of the delay occasioned. The petitioner's writ petition itself shows that there was only 12 days delay in counter-signing the bills, which delay was caused in the office of the petitioner herself.

4. The petitioner having received the certified copy of the judgment admittedly on 25.1.2002, ought to have been diligent to notice that the specific direction in Ext.P1 was that the amounts if not disbursed within two months would carry interest @ 9% per annum from 21.12.1999. The careful direction issued by the learned Single Judge was to ensure that money was paid expeditiously and on such payment being made expeditiously, the Government would be absolved of the liability from any interest. Proper care ought to have been taken to see that the amounts were paid within the time stipulated or at least to move a petition before the Court seeking extension of time. The petitioner

cannot absolve herself from the responsibility, especially, when, in the contempt petition the petitioner was the 1st respondent and the petitioner had filed a statement explaining her stance, which, though, led to the contempt case being closed, is not sufficient explanation for the delay occasioned. The delay which could have been avoided, mulcted the additional liability of interest on the Government. The petitioner had also been indifferent in the matter, since no petition was moved in time for an extension, stating the valid ground of a strike, which would have also absolved the Government of the additional liability.

In such circumstance, this Court does not find any reason to interfere with Ext.P8 order. Writ Petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE