

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WA.No. 1422 of 2011 ()

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AGAINST THE JUDGMENT IN WP(C).NO.12615/2004 DATED 19-05-2010.**

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APPELLANTS/RESPONDENTS 1 & 2 IN WP(C).:

**1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**2. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.**

BY SR. GOVT. PLEADER SRI.JOE KALLIATH.

RESPONDENTS/PETITIONERS & RESPONDENTS 3 & 4 IN WP(C).:

**1. M.M.THOMAS, AGED 56 YEARS,
S/O.MAMMEN THOMAS, LECTURER,
(SELECTION GRADE) (RETIRED), BISHOP MOOR COLLEGE,
MAVELIKKARA, RESIDING AT MELEYIL HOUSE,
POOVATHOOR P.O., KOLPPURAM VILLAGE,
THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT-689 645.**

**2. GEORGE JACOB, AGED 57 YEARS,
S/O.T.V. CHACKO, LECTURER (SELECTION GRADE)
(RETIRED), BISHOP MOOR COLLEGE,
RESIDING AT DILKUSH BHAVAN,
KODUKULANJI P.O., ALA VILLAGE,
CHENGANNOOR TALUK, ALAPPUZHA DISTRICT-689 508.**

**3. THOMAS MATHEW, AGED 60 YEARS,
S/O.P.G. MATHEW, LECTURER (SELECTION GRADE)
(RETIRED), BISHOP MOOR COLLEGE, MAVELIKKARA,
RESIDING AT KALLUMALA P.O., THAZHAKKARA VILLAGE,
MAVELIKKARA TALUK, ALAPPUZHA DISTRICT-690 513.**

**4. JACOB V.JOHN, AGED 58 YEARS,
S/O.C. JOHN, LECTURER (SELECTION GRADE)
(RETIRED), BISHOP MOOR COLLEGE, MAVELIKKARA,
RESIDING AT VILAYIL VAKAKKATHIL, KOTTARKAVU,
MAVELIKKARA P.O., ALAPPUZHA DISTRICT-690 513.**

WA.No. 1422 of 2011

**5. T.C. VARGHESE, AGED 57 YEARS, S/O.T.G. CHACKO,
LECTURER (SELECTION GRADE) (RETIRED),
CHRISTIAN COLLEGE, CHENGANNUR,
RESIDING AT THOTTATHIL HOUSE, CHENGANNUR P.O.,
CHENGANNUR TALUK, ALAPPUZHA DISTRICT-690 513.**

**6. THE MANAGER, BISHOP MOORE COLLEGE,
MAVELIKKARA-690 101.**

**7. THE MANAGER, CHRISTIAN COLLEGE,
CHENGANNUR-689 121.**

**R1 TO R5 BY SRI.KRB.KAIMAL, SENIOR ADVOCATE.
ADV. SRI.A.V.THOMAS.**

R6 & R7 BY SRI.BABU VARGHESE, SENIOR ADVOCATE.

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 18-02-2015,
ALONG WITH W.A. NO.1453 OF 2011 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

WA.No. 1422 of 2011

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A1 COPY OF THE JUDGMENT IN W.A. NO.97/2009
DATED 29/01/2009.**

**ANNEXURE A2 COPY OF THE JUDGMENT IN W.A. NO.1238/2007
DATED 09/07/2007.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.A. Nos.1422, 1453, 1494, 1498, 1515, 1609,
1719, 1860, 1868 of 2011,
W.A. Nos.1794 and 1859 of 2013

Dated this the 18th day of February, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

These writ appeals have been filed against a common judgment dated 19.05.2010 rendered in the writ petitions which were filed by the party respondents.

2. The respondents were working as Lecturer/Principals of private aided colleges coming under the direct payment system. Leave without allowances were granted to the respondents by respective management on different dates for different purposes. The issue which arose for consideration before learned Single Judge was as to whether the period prior to 14.06.1985 can be reckoned for the purpose of pensionary benefits. The learned Single Judge vide his judgment dated 19.05.2010 issued the following directions:

"8. xx xx xx xx

In the light of the discussions above, the respondents are directed to reconsider the claim of the petitioners for reckoning the period of LWA granted to

them by their respective managements prior to 14.06.1985 for the purpose of pensionary benefits as also for the purpose of placement under the UGC scheme as Senior Scale Lecturers and Selection Grade Lecturers within three months from the date of receipt of a copy of this judgment in the light of the observations contained in this judgment.

xx xx xx xx xx"

3. Against the above judgment of learned Single Judge, these writ appeals have been filed by the State. The Writ Appeals were ultimately referred by a reference order dated 07.09.2012 to be considered by Full Bench, there being two divergent views taken by different Division Benches. Ultimately the matter came to be heard by Full Bench and Full Bench, vide its order dated 21.01.2015, has decided the reference giving the following answer:

"We therefore answer the reference holding that the period during which the teachers of Private Colleges were on loss of pay for the purpose of employment abroad cannot be reckoned either for pension or for placement under the UGC scheme."

4. The learned counsel for the parties agree before us that in view of the answer by Full Bench by order dated

WA No. 1422 of 2011 & conn. cases

-:3:-

21.01.2015, nothing survives to be considered in these writ appeals and writ appeals are to be allowed setting aside the judgment of learned Single Judge.

In the result, all the writ appeals are allowed setting aside the judgment of learned Single Judge dated 19.05.2010 and all the writ petitions are dismissed.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**

tth/18/02