

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

W.A.No. 886 of 2015 IN WP(C).3309/2015

AGAINST THE ORDER IN WP(C) 3309/2015 of HIGH COURT OF KERALA DATED 24-3-2015

APPELLANT/ 3RD RESPONDENT:

C.R.MURUKAN BABU
MEMBER, SYNDICATE, UNIVERSITY OF CALICUT
CALICUT UNIVERSITY.P.O., PIN-673 655.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS/PETITIONER AND RESPONDENTS:

1. DR. M.ABDUL SALAM
VICE CHANCELLOR, UNIVERSITY OF CALICUT
CALICUT UNIVERSITY.P.O., PIN-673 635.
2. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF EDUCATION, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.
3. THE HON'BLE CHANCELLOR OF THE UNIVERSITY OF CALICUT
KERALA RAJ BHAVAN, KERALA GOVERNORS CAMP
SO POST OFFICE, THIRUVANANTHAPURAM-695 001.
4. THE REGISTRAR
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY.PO.
PIN-673 655.

R3-R4 BY ADV. SRI.SANTHOSH MATHEW, SC, CALICUTY UNIVERS
R1 BY ADV. SRI.DEVAN RAMACHANDRAN
R1 BY ADV. SRI.ADARSH KUMAR
R1 BY ADV. SRI.K.M.ANEESH
R BY GOVERNMENT PLEADER SRI.M.A.FAYAZ
R BY SRI.SANTHOSH MATHEW, SC, CALICUTY UNIVERS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE I: TRUE COPY OF THE NOTICE NO.VC/067/2011 DATED 28-11-2011.

ANNEXURE II: TRUE COPY OF THE COMMUNICATION NO.FIN CC/TRI/2012 DATED NIL.

ANNEXURE III: TRUE COPY OF THE PROCEEDINGS NO.PEN D1/5696/2011 DATED 21-6-2014 OF THE KERALA AGRICULTURAL UNIVERSITY.

ANNEXURE IV: TRUE COPY OF THE INTERIM ORDER IN W.P.(C) NO.3309/2015 DATED 3.2.2015.

ANNEXURE V: TRUE COPY OF THE ORDER NO.U.O.NO.3679/15/ADMN. DATED 8.4.2015.

ANNEXURE VI: TRUE COPY OF THE AUDIT REPORT FOR THE YEAR 2012-13 ALONG WITH LETTER NO.LFCUA 1/170/15 DATED 25-3-2015.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.886 of 2015

Dated this the 12th day of June, 2015

JUDGMENT

Antony Dominic, J.

The appellant, who is not a party to the writ petition, has filed this writ appeal after obtaining leave, challenging the order passed by the learned Single Judge in I.A.No.4286/15 in Writ Petition No.3309/15. By the impugned order, the learned Single Judge directed the fourth respondent herein, to comply with the order dated 3.2.2015 passed by this Court and to release the pay benefits including the salary and arrears to the first respondent who filed the writ petition. It is this order, which is under challenge.

2. We heard the counsel for the appellant, counsel appearing for the first respondent, Government Pleader appearing for respondents 2 and 3 and the Standing Counsel appearing for the fourth respondent.

3. Briefly stated, the facts of the case are that the first respondent herein was a Professor in the Kerala Agricultural University. He retired from that University and was thereafter appointed as Vice Chancellor of the Calicut University. According to the appellant, after joining the University

he was drawing not only the salary as applicable to the Vice Chancellor but also pension for the services rendered by him in the Kerala Agricultural University. There was a dispute as to whether he was eligible to draw both the benefits and that issue was clarified by the Chancellor by Ext.P11 communication, informing the first respondent that his salary shall be fixed as per Rule 100 of Part III Kerala Service Rule, considering his appointment as Vice Chancellor as re-employment. On a further representation made by the first respondent, the Chancellor reiterated that position in Ext.P14. It was challenging Exts.P11 and P14 that the first respondent filed the writ petition. In the writ petition, this Court passed the order dated 3.2.2015 which reads thus:

*“Admit. Urgent notice by speed post to respondents.
Considering the nature of the controversy, no recovery shall be effected from the petitioner till the disposal of the writ petition. However, the petitioner shall not draw any pension from the Kerala Agricultural University till the disposal of the writ petition.”*

4. Subsequently, first respondent filed I.A.4286/15, with the prayer to direct the fourth respondent herein to comply with the order

dated 3.2.2015 and to release pay benefits including the salary and arrears. It was on that I.A. the impugned order was passed by the learned Single Judge allowing relief as prayed for, which order is under challenge before us.

5. Essentially, therefore, by the impugned order the learned Single Judge directed that the fourth respondent should comply with the order dated 3.2.2015. Reading of the order dated 3.2.2015 shows that this Court prevented the authorities from recovering any amount from the first respondent but at the same time prevented the first respondent from drawing pension from the Agricultural University till disposal of the writ petition. This order entitled him to draw salary in his capacity as Vice Chancellor. It was his complaint that despite this order he was not getting salary and arrears and pointing out that grievance he filed I.A.4286/2015 which resulted in the impugned order directing that the fourth respondent should comply with the order dated 3.2.2015 and release salary and arrears due to him.

6. In our view, this order dated 24.3.2015 in I.A.4286/15 is perfectly consistent with the order dated 3.2.2015, which has not been

appealed against. If that be so, the order impugned cannot be said to have any illegality to be interfered with in this appeal. Therefore, we do not find any merit in this appeal. Appeal therefore fails.

Needless to say that the observations made in this order are in the context of the challenge against the order in I.A.4286/15 and are not on the merits of the main controversy which is to be resolved in the writ petition and this judgment will not affect the rights of the appellant to seek modification of the orders already passed in the writ petition.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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