

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WA.No. 1223 of 2015 () IN RP.788/2014

RP 788/2014 of HIGH COURT OF KERALA DATED 24-10-2014

WP(C) 5682/2013 of HIGH COURT OF KERALA DATED 09-09-2013

APPELLANT(S):

KERALA AGRICULTURAL UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
VELLANIKKARA, THRISSUR DISTRICT - 680 654.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KERALA
AGRICULTURAL UNIVERSITY.

RESPONDENT:

1. T.R RAVEENDRAN
(RETIRED SKIPPER GRADE II, FISHERIED COLLEGE,
PANANGAD, THOTTUNGAL HOUSE, ELAMAKKARA P.O.
KOCHI - 682 026.
2. REGISTRAR, KERALA UNIVERSITY OF FISHERIES AND
OCEAN STUDIES, PANANGAD P.O., KOCHI - 682 506.

R2 BY ADV. SRI.MILLU DANDAPANI, SC, KUFOS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.1223 of 2015

Dated this the 26th day of June, 2015

JUDGMENT

Antony Dominic,J.

The first respondent in Writ Petition No.5682 of 2013 has filed this writ appeal impleading only the writ petitioner and the 4th respondent in the writ petition as respondents 1 and 2, challenging judgment of the learned Single Judge and also the order passed in R.P. No.788 of 2014.

2. The writ petition was filed by the first respondent in which his essential claim was that his daily waged service for the period 20.05.1985 to 23.6.1996 should also be reckoned for terminal benefits. He had earlier filed a writ petition which culminated in Ext.P9 judgment of this Court where this Court directed consideration of the claim made by him as per Ext.P10 mentioned in that judgment. Accordingly his claim was considered and the University issued Ext.P10 order, substantially accepting the entire claims made by the first respondent.

3. In the writ petition, what he wanted was an order for the

implementation of Ext.P10. The learned Single Judge taking note of the fact that Ext.P10 was issued by the University and that it was in force, by judgment under appeal directed that the benefit of Ext.P10 be given to the first respondent. This judgment was sought to be reviewed by R.P. No.788 of 2014 filed by the respondents in the writ petition. That R.P. was heard and finding that there was no error apparent on the face of the judgment, the same was dismissed by order dated 24.10.2014. It is in this background the appeal is filed.

4. We heard the learned counsel for the appellant and the learned counsel appearing for the 1st respondent.

5. First of all, this appeal, as we have already stated is filed by only the first respondent in the writ petition and apart from impleading the writ petitioner and the 4th respondent in the writ petition, the other respondents have not either joined as appellants or impleaded as respondents. That itself is a major defect in the proceedings instituted warranting rejection of the writ appeal.

6. Even otherwise on merits also, we are not satisfied that the appellant has made out a case for interference. The only

contention urged before us is that Ext.P10 is a result of mistake and that therefore the learned Single Judge while considering the review petition filed by the appellant should have given them liberty to re-consider the matter and rectify the mistake.

7. It is evident that Ext.P10 was passed considering the peculiar facts of the case as noticed therein. Even in the review petition, apart from urging the plea of mistake, to substantiate that there was a mistake in taking the decision as reflected in Ext.P10, no mistake or the details thereof are not made out. This therefore means that the plea of mistake is purely an after thought now pressed into service by the University to wriggle out its duty to comply with Ext.P10. We do not find any illegality in the judgment and the order appealed against.

Appeal fails and it is accordingly dismissed.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

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smv

P.A. to Judge