

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MRS.JUSTICE MARY JOSEPH

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WA.No. 1891 of 2015 () IN WP(C).21154/2015

AGAINST THE ORDER IN WP(C) 21154/2015 of HIGH COURT OF KERALA DATED
21-07-2015

APPELLANT(S)/RESPONDENTS:

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1. KERALA AGRICULTURAL UNIVERSITY
REPRESENTED BY ITS REGISTRAR, VELLANIKKARA
THRISSUR DISTRICT, PIN 680656.
 2. THE COMPTROLLER
KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA
THRISSUR DISTRICT, PIN 680656.

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

RESPONDENT(S)/PETITIONER:

M.N.PAVITHRAN, AGED 56 YEARS
S/O.M.K.NARAYANAN, RETIRED AS FARM SUPERINTENDENT
AGRICULTURAL TECHNOLOGY INFORMATION CENTRE, MANNUTHY
THRISSUR DISTRICT, PIN 680651.

BY SMT.I.SHEELA DEVI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- ANNEXURE A : TRUE COPY OF THE ORDER DATED 21.08.2015 IN I.A NO. 12105/2015 IN W.P.(C) NO.21154/2015 OF THIS HON'BLE COURT
- EXHIBIT P1 : TRUE COPY OF THE ORDER NO.PEN.B2/948/2015 DATED 25.02.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- EXHIBIT P2 : TRUE COPY OF THE COMMUNICATION NO.LF(KAU) P1/135/15 DATED 16.03.2015 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT
- EXHIBIT P3 : TRUE COPY OF THE VIVAHA PATHRIKA ISSUED BY THE SNDF YOGAM, MANNUTHI UNION
- EXHIBIT P4 : TRUE COPY OF THE INVITATION LETTER OF THE MARRIAGE
- EXHIBIT P5 : TRUE COPY OF THE JUDGMENT W.P.(C) NO.10214/2015 OF THE HONOURABLE HIGH COURT OF KERALA

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.Surendra Mohan & Mary Joseph, JJ.

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W.A No.1891 of 2015

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Dated this the 25th day of August, 2015.

JUDGMENT

Surendra Mohan, J

This writ appeal is filed against the interim order dated 21.07.2015 in W.P.(C) No.21154 of 2015 passed by the learned Single Judge directing provisional payment of an amount of Rs. 6 Lakhs towards the retirement benefits due to the respondent, who was an employee of the first appellant. The respondent had retired on 31.01.2015. He had sought for the payment of a portion of his retirement benefits, since he was urgently in need of funds for conducting the marriage of his daughter. The learned Single Judge had, considering the situation, issued the interim direction. The appellants had thereafter, moved the petition and sought for a clarification of the order. It has been clarified in Annexure A that, the order was passed on the basis of the submissions made by the learned counsel for the appellants as well as the submissions of the

counsel for the respondents. It has also been noted in Annexure A that, as per order in C.O.C No.1143 of 2015, a direction has been issued for payment of the entire amount on or before 01.09.2015.

2. The contention of Sri.Babu Joseph Kuruvathazha who appears for the appellants is that, in view of Ext.P5 judgment passed by another learned Single Judge of this Court, retirement benefits are being disbursed to the employees on priority basis, depending on the dates of retirement of each employee. The petitioner having retired only on 31.01.2015, in accordance with the priority, his retirement benefits could not be disbursed at this time. The retirement benefits of only persons who have retired in November, 2013 have been disbursed till date. Therefore, according to the counsel, the interim order issued in violation of the direction contained in Ext.P5 is liable to be interfered with in appeal.

3. Advocate Smt.I.Sheela Devi appears for the respondent. The counsel opposes the contentions of the counsel for the appellant pointing out that, since the amount ordered to be paid by this Court was not paid, the marriage had to be solemnized after borrowing funds. Therefore, it is contended that the respondent is in urgent

need of the amount that was directed to be paid.

4. Heard. We notice that the interim order against which this writ appeal is preferred was passed in the peculiar facts and circumstances of this case. This Court certainly has the power to pass such interim orders, wherever in the facts of a particular case, the normal priority that is being observed in the matter of disbursement of retirement benefits, require to be bypassed. There would be cases where a retired employee would require funds urgently for medical treatment or for such exigencies like the marriage of his son or daughter. Instances of such exigencies are not exhaustive and cannot be enumerated. It is for this Court to evaluate the facts and circumstances of each case and to decide whether payment of retirement benefits overlooking the priority is necessary to be made in a particular case. Any order passed, evaluating such peculiar facts, cannot be found fault with on the ground that the priority has been overlooked. In this case, the appellants had moved for clarification of the order and this Court had also issued a clarification. We find no ground to interfere with the exercise of discretion by the learned Single Judge.

As the last submission, learned counsel for the appellants sought for the grant of a breathing time for making payment of the amount that has been directed to be paid. Accepting the above request, we extend the time limit fixed by the learned Single Judge in C.O.C No.1143 of 2015 up to 10.09.2015

Writ appeal is disposed of with the above direction.

Sd/-
K. Surendra Mohan, Judge.

Sd/-
Mary Joseph, Judge.

vdv