IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 2173 of 2011 (V)

PETITIONER:

AJAYAKUMAR.R,
LAB ATTENDER,
SREE CHITHRA THIRUNAL COLLEGE OF ENGINEERING,
PAPPANAMCODE, THIRUVANANTHAPURAM.

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY THE
   ADDITIONAL CHIEF SECRETARY, TRANSPORT DEPARTMENT
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.695001

2. **SREE CHITRA THIRUNAL COLLEGE OF ENGINEERING,**
   PAPPANAMCODE, THIRUVANANTHAPURAM
   REPRESENTED BY THE PRINCIPAL, PIN- 695 018.

3. **THE BOARD OF GOVERNORS,**
   SREE CHITRA THIRUNAL COLLEGE OF ENGINEERING,
   PAPPANAMCODE, THIRUVANANTHAPURAM-695018

4. **THE CHAIRMAN,**
   SREE CHITRA THIRUNAL COLLEGE OF ENGINEERING,
   PAPPANAMCODE, THIRUVANANTHAPURAM-695018

5. **THE PRINCIPAL,**
   SREE CHITRA THIRUNAL COLLEGE OF ENGINEERING,
   PAPPANAMCODE, THIRUVANANTHAPURAM-695018

R2 TO R5 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA, SC,
SREE CHITRA THIRUNAL COLLEGE OF ENGG.
R1 BY GOVERNMENT PLEADER SRI. P.V. ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

APPENDIX

PETITIONERS' EXHIBITS

EXT- P1- TRUE COPY OF THE SSLC CERTIFICATE OF THE PETITIONER

EXT- P2- TRUE COPY OF THE APPOINTMENT ORDER No.222-E/2004/SCTE DATED 31-05-2004 OF THE 5TH RESPONDENT.

EXT- P3- TRUE COPY OF THE CERTIFICATE ISSUED BY THE 5TH RESPONDENT ON 13-09-2010 EVIDENCING THE SERVICE DETAILS OF THE PETITIONER.

EXT- P4- TRUE COPY OF THE ORDER No.222-E/2004/SCTE DATED 06-11-2010 OF THE 5TH RESPONDENT.

EXT- P5- TRUE COPY OF THE ORDER No.350/Adm2/2006/ECTCE DATED 28-02-2006 OF THE 5TH RESPONDENT.

EXT- P6- TRUE COPY OF THE ORDER No.350/Adm2/2006/ECTCE DATED 20-04-2005 OF THE 5TH RESPONDENT.

EXT- P7- TRUE COPY OF THE JUDGMENT DATED 07-01-2010 IN WPC No.14017/2005 OF THIS HON'BLE COURT.

EXT- P8- TRUE COPY OF THE PROCEEDINGS No.529A2/2010/SCTE DATED 16-08-2010 OF THE 5TH RESPONDENT.

EXT- P9- TRUE COPY OF THE REPRESENTATION DATED 14-01-2011 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT- P10- TRUE COPY OF THE PROCEEDINGS No.222-E/2004/SCTE DATED 23-02-2011 OF THE 5TH RESPONDENT.

EXT- P11- TRUE COPY OF THE ORDER No.222-E/2004/SCTE DATED 01-03-2011 ISSUED BY THE 5TH RESPONDENT.

EXT- P12- TRUE COPY OF THE ORDER No.222-E/2004/SCTE DATED 05-08-2014 OF THE 5TH RESPONDENT.

EXT- P13- TRUE COPY OF THE ORDER No.222-E/2004/SCTE DATED 05-08-2014 OF THE 5TH RESPONDENT.

EXT- P14- TRUE COPY OF THE ORDER No.498-Admn-1/2004/SCTE DATED 24-06-2013 OF THE 5TH RESPONDENT.

RESPONDENTS' EXHIBITS

EXT- R2 (a) - TRUE COPY OF THE BOND EXECUTED BY THE PETITIONER.

True copy

P.A. To Judge

AMG

C.K. ABDUL REHIM, J.

W.P.(c) No. 2173 OF 2011

DATED THIS THE 8th DAY OF APRIL, 2015.

J U D G M E N T

The petitioner is working as 'Lab Attender' in the Department of Bio-technology in the 2nd respondent college. He was first appointed on 31-05-2004 and the contract period was extended thereafter periodically. The petitioner claims regularisation in the service of the 2nd respondent, on the basis that he is duly qualified and experienced in the post in question. It was pointed out that all other contract employees working under the 2nd respondent was regularised. Exhibit P5 & P6 orders issued on identical situations were pointed out in this regard. The petitioner also relies on Ext.P7 judgment rendered by this court, wherein direction was issued to regularise service of the contract employees working under the 2nd respondent. This writ petition is filed at a time when the respondents invited applications for filling up of various posts including the post of 'Lab Attender', without considering request of the petitioner for regularisation.

2. On 03-02-2011 when the writ petition came up for consideration this court issued an interim order directing the respondents 3 & 4 to take a decision on the question of regularisation, based on Ext.P9 representation, within a time limit stipulated. The interim order passed on 25-01-2011 restraining the dispensation of service of petitioner, was allowed to continue till a decision as directed is taken. Petitioner had produced Ext.P11 order issued by the 5th respondent in compliance of the interim direction. Referring to specific terms of contract executed by the petitioner at the time of appointment, it was observed that the petitioner is liable to be terminated on the expiry of the contract period. Therefore the representation was rejected. Learned counsel for the petitioner points out that in Ext.P11 respondents 4 & 5 have not considered the claim made for regularisation based on the fact that the petitioner was continuing in service for quite a long period and based on the fact that similarly situated other persons were already regularised. It is noticed that on a similar situation this

court had disposed of another writ petition filed by a contract employee under the 2nd respondent in W.P (c) No.16872/2009. In the judgment dated 04-12-2012 this court expressed the view that it is for the Board of Governors of the 2nd respondent college to consider the question of regularisation and to take an appropriate decision. In the said case necessary directions were issued by this court to the 3rd respondent herein. This court is of the opinion that whether the service of the petitioner can be regularised taking into consideration of all attendant circumstances, is a question which need to be primarily decided by the management of the 2nd respondent college. Therefore the petitioner can be provided with an opportunity to approach the 3rd respondent in a suitable representation. Interest of justice can be achieved by directing to consider such representation and to take an appropriate decision, notwithstanding Ext.P11 issued by the 5th respondent.

3. Therefore this writ petition is hereby disposed of by directing the petitioner to file an appropriate representation before the 3rd respondent, within 2 weeks from the date of receipt of a certified copy of this judgment, enclosing a certified copy of this judgment. If any such representation is received by the 3rd respondent within the period stipulated as above, the same shall be considered in view of the stand adopted with respect to similarly situated other employees and taking note of the observations contained herein above. A decision on such representation shall be taken by the 3rd respondent at the earliest possible, at any rate within a period of one month from the date of receipt of such representation.

4. In order to facilitate the 3rd respondent to consider the issue and to take an appropriate decision it is only just and proper to permit the petitioner to continue in service, as already ordered in the interim order issued in this writ petition. Therefore the contract service of the petitioner shall not be dispensed with for a further period of

2 months from today.

5. Needless to observe that the 2nd respondent will be at liberty to permit continuance under the contract appointment beyond the above said period, even if no favourable decision is taken in the matter.

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge