

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

W.P.(C).No.3058 of 2008 (L)

PETITIONER(S):-

1. K.K.BABU, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
N.S.S.COLLEGE OF ENGINEERING, PALAKKAD.
2. E.K.KUNJANANDAN NAMBIAR,
SELECTION GRADE LECTURER, CIVIL ENGINEERING DEPARTMENT,
N.S.S.COLLEGE OF ENGINEERING, PALAKKAD.
3. SUDHA.V., SENIOR SCALE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
N.S.S.COLLEGE OF ENGINEERING, PALAKKAD.
4. UMADEVI P.P., SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
5. VIJAYAKUMARI P.L., SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
6. JAYALAKSHMI R., SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
N.S.S.COLLEGE OF ENGINEERING, PALAKKAD.
7. N.C.NIRMALA DEVI, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
8. K.B.ANAND, ASSISTANT PROFESSOR,
CIVIL ENGINEERING DEPARTMENT, NSS COLLEGE OF ENGINEERING,
PALAKKAD.
9. A.V.HEMAMALINI, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.

10. G.USHAKUMARI, SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
11. V.ANILKUMAR, SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS, NSS COLLEGE OF ENGINEERING,
PALAKKAD.
12. C.VIPINCHANDRAN, SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
13. A.K.RAJI, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
14. SASIDHARAN, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
15. K.SUBHA, SELECTION GRADE LECTURER,
CIVIL ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
16. M.G.RENJINI, SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS, NSS COLLEGE OF ENGINEERING,
PALAKKAD.
17. R.RAJALAKSHMI, SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS, NSS COLLEGE OF ENGINEERING,
PALAKKAD.
18. LATHA M., SELECTION GRADE LECTURER,
DEPARTMENT OF MATHEMATICS,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
19. DR.E.G.JANARDHANAN, ASSISTANT PROFESSOR,
ELECTRICAL AND ELECTRONICS, ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
20. SUDHIR P., SELECTION GRADE LECTURER,
ELECTRICAL AND ELECTRONICS, ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
21. SREELATHA L., SELECTION GRADE LECTURER,
ELECTRICAL AND ELECTRONICS, ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.

22. VIKRAMAN M.R., PROFESSOR,
ELECTRONICS AND COMMUNICATIONS,
ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
23. B.SITHALAKSHMI AMMA, PROFESSOR,
INSTRUMENTATION AND CONTROL, ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
24. SREENADHAN.S., ASSISTANT PROFESSOR,
INSTRUMENTATION AND CONTROL, ENGINEERING DEPARTMENT,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
25. N.R.NANDAKUMAR, LIBRARIAN GRADE II,
NSS COLLEGE OF ENGINEERING, PALAKKAD.
26. P.C.RADHAKRISHNAN NAIR, INSTRUCTOR GRADE I,
NSS COLLEGE OF ENGINEERING, PALAKKAD.

BY ADV. SRI.G.SREEKUMAR (CHELUR).

RESPONDENT(S):-

1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVT. (FINANCE),
THIRUVANANTHAPURAM.
2. HIGHER EDUCATION SECRETARY, THIRUVANANTHAPURAM.
3. THE DIRECTOR OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.
4. THE DIRECTOR OF TREASURIES, THIRUVANANTHAPURAM.
5. THE JOINT DIRECTOR,
REGIONAL DIRECTORATE OF TECHNICAL EDUCATION, KOZHIKODE.
6. THE DISTRICT TREASURY OFFICER, PALAKKAD.
7. THE PRINCIPAL, NSS COLLEGE OF ENGINEERING, PALAKKAD.

R1 TO R6 BY GOVERNMENT PLEADER SRI.S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.3058 OF 2008-L

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.4975/05
DATED 23.2.05.
- EXT.P2 TRUE COPY OF THE ORDER PASSED BY THE
1ST RESPONDENT DATED 15.6.07.
- EXT.P3 TRUE COPY OF THE ORDER PASSED BY THE
1ST RESPONDENT DATED 14.11.07.
- EXT.P4 TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT
IN W.P.(C).NO.388 OF 2008 DATED 16.1.2008.

RESPONDENT'S EXHIBITS:-

vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.3058 of 2008-L

Dated this the 14th day of September, 2015

JUDGMENT

The writ petition was with respect to the payment of tax deduction at source, under the Income Tax Act, 1961 being effected by the Government. The petitioners, the teaching faculty of a College of Engineering, the salary for whom is provided by the State Government, were granted pay revision with retrospective effect. The arrears of pay as per the revision effected was to be remitted to the Provident Fund Account. However, the Government by an order, directed that no tax deduction would be made and the entire arrears including the tax would be deposited to the Provident Fund Account. The same definitely goes against the provisions of the Income tax Act. The issue is also covered by the judgment of this Court in ***Tomy v. Union of India [(2001) 2 KLT 537]***. Based on the said decision, an interim order was already granted by this Court on 25.01.2008, directing the Government that sufficient amounts be made available to the petitioners for payment of income tax.

In such circumstance, the writ petition need not be kept pending and the writ petition would stand allowed, making the interim order absolute.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]