

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT.JUSTICE P.V.ASHA

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WA.No. 2564 of 2015 IN WP(C).17058/2015

AGAINST THE JUDGMENT IN WP(C) 17058/2015 of HIGH COURT OF KERALA DATED 01-09-2015

APPELLANT/4TH & 3RD RESPONDENTS IN THE WPC :

1. THE DIRECTOR
OFFICE OF THE DIRECTOR OF LOCAL FUND AUDIT
IVTH FLOOR, VIKAS BHAVAN, THIRUVANANTHAPURAM.
2. JOINT DIRECTOR
LOCAL FUND AUDIT, KERALA AGRICULTURE UNIVERSITY
VELLANIKKARA, THRISSUR DISTRICT-683 003.

BY SR. GOVERNMENT PLEADER SRI.M.A.FAYAZ

RESPONDENTS/PETITIONER & RESPONDENTS 1 & 2 IN THE WPC :

1. PR.SATHYAN
(RETD. FARM SUPERINTENDENT), PEECHOLY HOUSE
PATTIKKAD P.O., THRISSUR DISTRICT-680 652.
2. KERALA AGRICULTURE UNIVERSITY
VELLANIKKARA, THRISSUR DISTRICT, PIN-683 003.
3. THE COMPTROLLER
KERALA AGRICULTURE UNIVERSITY, VELLANIKKARA
THRISSUR DISTRICT-683 003.

R1 BY ADV.SRI.KURIAN GEORGE KANNANTHANAM (SR.)
R1 BY ADV.SRI.THOMAS GEORGE
R BY SRI.BABU JOSEPH KURUVATHAZHA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-12-2015 ALONG
WITH W.A.2585/15, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

Writ Appeal Nos.2564 & 2585 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

Antony Dominic, J.

These writ appeals are filed by the respondents in W.P.(C) No.17058/15. The said writ petition was filed by the first respondent herein, who retired from service of the appellant in W.A.No.2585/15 as Farm Superintendent, with the prayer that he be disbursed all terminal benefits such as pension, DCRG, commutation of pension and other consequential benefits on the basis of pay as provided the 9th Pay Commission. By judgment dated 1st September 2015, the learned Single Judge allowed the writ petition following the judgment of this court in W.P. (C)9276/13 and 2239/13. It is this judgment, which is under challenge before us.

2. We heard the Government Pleader appearing for the appellants in W.A.2564/15; the learned Standing Counsel appearing for the appellants in W.A.2585/15 and the learned Senior Counsel appearing for the writ petitioner.

3. First of all, the judgment in W.P.(C)9276/13 has already been upheld by this court in the judgment in W.A.1826/14 and connected cases which were disposed of by this court on 8.12.2015. However, before us the contention raised by learned counsel for the appellants is that the post of Farm Superintendent, the post from which the appellant retired from service on 30.11.2013, is not a post borne out by the First statutes of the Kerala Agricultural University, first appellant in W.A.2585/15. However, from the materials produced before us, we find that the writ petitioner was promoted to the post of Senior Farm Supervisor, which post is Category No.1 in the Kerala Agricultural University First Statutes, framed by the Government of Kerala in exercise of its power under Section 63 of the Kerala Agricultural University Act, 1971 vide G.O.(MS)No.43/93/AD(1), dated 3rd March 1993. Subsequently, by order dated 1.8.2007 issued by the University, the University ordered the re-designation of 7 posts including that of Senior Farm Supervisor, which was re-designated as Farm Superintendent. It is to that post, the writ petitioner was promoted and from which, on attaining the age of superannuation, he retired from

service on 30.11.2013. Once a post is re-designated, the post should be deemed to have ceased part of the Statutes and the re-designated post is deemed to have become part of the Statutes. We do not find any substance in the contention raised by the University and the Government. Therefore, the Government and University were not entitled to abolish the post without amending the Statutes. In all other respects, the issues raised in these appeals are covered by WA.1826/14.

4. At this stage, counsel for the University undertakes to settle the terminal benefits of the writ petitioner within two weeks from today. We record the submission and direct that the terminal benefits be settled as undertaken by the counsel.

Appeals therefore fail and are accordingly rejected.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
P.V.ASHA
JUDGE