

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 59 of 2015 (F)

PETITIONER(S):

N.K BABU AGED 48 YEARS
'DEVANANDANAM', MELE PATTAMBI P.O.
PALAKKAD DISTRICT - 679 306
WORKING AS ASST. PROFESSOR OF COMMERCE
GOVT. SANSKRIT COLLEGE, PATTAMBI, PALAKKAD DIST.

BY ADVS.SRI.B.UNNIKRISHNA KAIMAL
SRI.T.ISSAC

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF HIGHER EDUCATION, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. THE DIRECTOR OF COLLEGIATE EDUCATION
VIKAS BHAVAN, THIRUVANANTHAPURAM - 695 033.

3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
THRISSUR - 680 020.

4. THE ACCOUNTANT GENERAL (A & E)
KERALA, BRANCH OFFICE, JAWAHAR NAGAR
KOZHIKODE - 673 006.

5. THE PRINCIPAL
MES ASMABI COLLEGE, VEMBALLUR P.O., KODUNGALLUR
THRISSUR DISTRICT, PIN - 680 671.

R1-R4 BY ADV. GOVERNMENT PLEADER:SRI M A FAYAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE JUDGMENT DATED 26/11/2009 OF THIS HON'BLE COURT IN WPC NO. 35957/2008.

EXHIBIT P2: TRUE COPY OF THE G.O.(P) NO. 49/2013/H.EDN. DATED 22/02/2013.

EXHIBIT P3: TRUE COPY OF THE COMMUNICATION DATED 29/10/2013 OF THE 2ND RESPONDENT ADDRESSED TO THE DEPUTY DIRECTORS.

EXHIBIT P4: TRUE COPY OF THE LETTER NO. PF24/IV/RTI/2014-15/903/943 DATED 01/07/2014 OF THE 4TH RESPONDENT TO THE PETITIONER.

EXHIBIT P5: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE COMMUNICATION NO. E3-4552/2014 DATED 02/08/2014 ISSUED BY THE PUBLIC INFORMATION OFFICER IN THE OFFICE OF THE 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT P7: TRUE COPY OF THE LETTER NO. UGC-CELL5/26543/2014/COLL.EDN DATED 29/08/2014 OF THE 2ND RESPONDENT TO THE 1ST RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE PETITION DATED 20/11/2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS:

ANNEXURE R3(a): PHOTOCOPY OF THE LETTER ISSUED BY the 3rd RESPONDENT TO the DIRECTOR OF COLLEGIATE EDUCATION

ANNEXURE R3(b): PHOTOCOPY OF THE REPLY GIVEN BY THE DIRECTOR OF COLLEGIATE EDUCATION

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.59 of 2015
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Dated this the 27th day of January, 2015

JUDGMENT

Petitioner was appointed as Lecturer in Commerce in the MES Asmabi College, Vemballur in the year 2005. He worked in that Private Aided College for the period from 25.02.2005 till 03.10.2007. Thereafter, petitioner got appointment in Government College with effect from 04.10.2007. The present issue pertains to crediting Dearness Allowance, Dearness Pay and arrears based on revision of 6th UGC Pay. Petitioner's appointment in the aided college though approved, Government did not sanction salary and other allowances. Aggrieved by this, petitioner approached this Court. As per Ext.P1 judgment, petitioner got salary for the above period. But the Dearness pay due to the petitioner was not transferred to his PF account as he had no account in the Kerala Private College Teachers Provident Fund. By the time the judgment was delivered, petitioner joined in the Government college. It is a clear case that portion of the arrears retained by the Government has to be credited to the petitioner's PF account. It is also admitted that petitioner's salary was paid only in the year

2009 consequent upon direction of this Court. Since he was in the service of Government College at the time of disbursement of salary, he had only GPF account and arrears were retained for the reason that he had no account in the Kerala Private College Teachers Provident Fund. Petitioner approached this Court for a direction to the first respondent to direct the third and fifth respondents to release and disburse the Dearness Pay part of salary of the petitioner for the period from 25.02.2005 to 03.10.2007 and also to disburse the 6th pay revision arrears for the period from 01.01.2006 to 30.07.2007.

2. Learned Government Pleader based on the statement filed on behalf of the third respondent submits that in the light of government order G.O(P) No.49/2013/H.Edn dated 22.02.2013 and G.O(P).No.38/07/(33)/Fin dated 31.01.2007, it is not possible to make payment directly otherwise than crediting the same to the PF account. There is no dispute as to petitioner's entitlement for that share. The only question is regarding the mode of payment of arrears of pay and allowances in respect of the petitioner as he had already left MES Asmabi College and joined Government College. It seems, the Director of Collegiate Education already addressed the Government about this issue.

Ext.P7 is the communication requested by the Director of Collegiate Education.

3. Considering the facts and circumstances, I am of the view that Government has to take decision in the matter in the light of Ext.P7 request within three months from the date of receipt of a copy of this judgment. Petitioner shall produce copy of the Writ Petition along with the judgment for compliance by the first respondent.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/30/01/15