

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 501 of 2015 (K)

PETITIONER(S) :

1. **S. VIJAYAN, AGED 48 YEARS**
T.C.50/1279, THALIYAL, KARAMANA P.O.
THIRUVANANTHAPURAM.
2. **V. SATHYAVATHI, 54 YEARS**
T.C.13/680, CHAMBIAN BHASKARAN ROAD, KUNNUKUZHI
THIRUVANANTHAPURAM.
3. **S.RAJENDRAN, 53 YEARS**
T.C.21/1475, CHIRAKUZHI VEEDU, NEDUNGAD
KARAMANA P.O., THIRUVANANTHAPURAM.
4. **J.RAMABHAI, 53 YEARS**
CHIRAYIDITHALAKKAL MELEPUTHANVEEDU,
KURISUMUTTAM, PEYAD, THIRUVANANTHAPURAM.
5. **B.SIVAKUMAR, 51 YEARS**
SHAIBA BHAVAN, MELAMKODE, NEMAM P.O.
THIRUVANANTHAPURAM.
6. **B.RAMANI, 51 YEARS**
MAMBAZHAKUNNU PUTHANVEEDU, NETTAYAM
MANIKANDESWAREM P.O., THIRUVANANTHAPURAM.
7. **S.GIRIJA, 51 YEARS**
T.C.21/989, CHIRAKUZHI MELE PUTHANVEEDU, MANGATTUKONAM
NEDUNGAD, KARAMANA P.O., THIRUVANANTHAPURAM.
8. **L.SUDHA, 50 YEARS**
T.C.50/1815, DHARMAMUDUMBU, VAYALIL HOUSE
KALADY, KARAMANA P.O., THIRUVANANTHAPURAM.
9. **S. SASIKALA**
44 YEARS, T.C. 14/1493
THOTTUVARAMBU VEEDU
VAZHUTHACAUD, THIRUVANANTHAPURAM.

10. S. SHEELA, 42 YEARS
MANKULATH VEEDU
TC 31/1285, KIZHAKKEPATTAM
THIRUVANANTHAPURAM.

11. R. MANJU, 41 YEARS
KANJIRAVILAKAM, KEEZHARANNUR
NEDUNGAD, KARAMANA P.O.,
THIRUVANANTHAPURAM.

BY SENIOR ADVOCATE SRI.RENJITH THAMPAN
BY ADV. SMT. P.R. REENA

RESPONDENT :

KERALA AGRICULTURAL UNIVERSITY
HEAD OFFICE, VELLANIKKARA, THRISSUR
PIN – 680 654
REPRESENTED BY ITS REGISTRAR.

BY ADV. SRI.BABU JOSEPH KURUVATHAZA, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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...3/-

WP(C).No. 501 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1: TRUE COPY OF THE ORDER DATED 01/10/2009 ISSUED BY THE
UNIVERSITY.**
- EXT.P2: TRUE COPY OF THE ORDER DATED 12/10/2009 ISSUED BY THE
RESPONDENT UNIVERSITY.**
- EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 30/07/2013 FILED BY
THE PETITIONERS.**
- EXT.P4: TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 2858 OF 2014 DATED
28/02/2014.**
- EXT.P5: TRUE COPY OF THE ORDER OF THE KERALA AGRICULTURAL
UNIVERSITY DATED 26/11/2014.**
- EXT. P6: COPY OF THE G.O.(P) NO. 248/80/AD DATED 8/7/1980.**
- EXT. P7: COPY OF THE PROCEEDINGS OF THE PROFESSOR AND HEAD
KERALA AGRICULTURAL UNIVERSITY DATED 20.12.2014.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 501 OF 2015

Dated this the 6th day of March, 2015

JUDGMENT

The petitioners, who were working as casual workers in the Karamana farm of Agricultural Department, were absorbed in the service of the Agricultural University on account of taking over of the farm by the Agricultural University. The issue pertains to reckoning the prior service as qualifying service for pension. This has been rejected by the Registrar of the University as per Ext.P5.

2. The petitioners rely on Ext.P6 Government Order dated 8/7/1980 issued by the Agricultural Department of Government of Kerala. That order relates to Pension (Gratuity) Rules of Departmental Farm Work of the Agriculture Department which includes Animal Husbandry and Dairy Development Department. As per Ext.P6, the petitioners are entitled to get the period of temporary service to be taken into consideration while calculating the pensionary benefits. Rule 4 (e)(iii) of Ext.P6 reads as follows:

“(iii): 200 days or more work in a calendar year during the period of service spent as casual labourer in the departmental farms prior to permanency will be treated as one year qualifying for pension. The number of working days during the remaining period of casual service in the departmental farms will be added together and 200 each such days or fractions thereof will be considered as one year qualifying service for pension. ”

3. It is submitted that in the light of the criteria in the Agricultural Departmental Farm Workers Pension Rules as referred to above, the petitioners are entitled to reckon their prior service as qualified service for pension. The petitioners submit that as the University has already reckoned the prior service of one Bharghavan as per the above Rule for calculating the pensionary benefits, there is no reason for denying the same to them.

4. Once the right accrued to the petitioners to reckon the qualifying service, that right cannot be taken away while absorbing them in the service. It is to be noted that while

absorbing the petitioners as per Ext.P2, they were not denied the right accrued based on the Rules. Therefore, unless and until Rules decline such a right, the right already accrued to them forms part of their regular service.

5.In view of the above, Ext.P5 is set aside. The University is directed to take a decision in the light of the Rules as stated above and also after adverting to Ext.P7, within a period of two months after affording an opportunity of hearing to anyone among those who have been chosen as representatives by the petitioners.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

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/true copy/

P.S. To Judge.

