

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 1969 of 2015 (U)

PETITIONER :

**DR.GIRISH KUMAR R., AGED 45,
S/O.LATE K.RAMAKRISHNA PILLAI, WTO CHAIR PROFESSOR
DEPARTMENT OF INTERNATIONAL REGULATIONS
CENTRAL UNIVERSITY OF KERALA, KASARAGOD-671 316.**

**BY ADVS.SRI. P.K. IBRAHIM
SMT. K.P. AMBIKA
SMT. A.A. SHIBI**

RESPONDENT(S) :

- 1. THE CENTRAL UNIVERSITY OF KERALA
TEJASWINI HILLS, PERIYE P.O., KASARAGOD-671316
REPRESENTED BY ITS REGISTRAR.**
- 2. THE VICE CHANCELLOR,
THE CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS
PERIYE P.O., KASARAGOD-671316.**

R1 & R2 BY ADV. SRI.V.SAJITH KUMAR, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-02-2015,THE COURT ON 09-02-2015 DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT P1 :** TRUE COPY OF THE COMMUNICATION DATED 04-07-2012 OF THE 1ST RESPONDENT SEEKING THE SERVICE OF THE PETITIONER FOR CENTRAL UNIVERSITY OF KERALA TO SET UP DEPARTMENT OF INTERNATIONAL RELATIONS.
- EXT P2 :** TRUE COPY ORDER DATED 11-07-2012 RELIEVING THE PETITIONER TO JOIN THE 1ST RESPONDENT UNIVERSITY ON DEPUTATION.
- EXT P3 :** TRUE COPY PROCEEDINGS OF THE EXPERT COMMITTEE DATED 06-08-2012 UNANIMOUSLY RECOMMENDING TO APPOINT PETITIONER AS ASSOCIATE PROFESSOR IN THE DEPARTMENT OF INTERNATIONAL RELATIONS.
- EXT P4 :** TRUE COPY OF THE LETTER DATED 24-08-2012 SEEKING NO OBJECTION CERTIFICATE FROM M.G.UNIVERSITY TO APPOINT PETITIONER AS ASSOCIATE PROFESSOR IN THE DEPARTMENT OF INTERNATIONAL RELATION.
- EXT P5 :** TRUE COPY ORDER DATED 12-10-2012 ISSUED APPOINTING PETITIONER AS ASSOCIATE PROFESSOR IN THE DEPARTMENT OF INTERNATIONAL RELATION OF THE 1ST RESPONDENT UNIVERSITY.
- EXT P6 :** TRUE COPY OF THE LETTER DATED 22-11-2013 SEEKING WILLINGNESS OF THE PETITIONER TO CONTINUE ON DEPUTATION AS WTO CHAIR PROFESSOR.
- EXT P7 :** TRUE COPY OF THE NOC ISSUED BY M.G.UNIVERSITY DATED 25-11-2013 PERMITTING PETITIONER ON DEPUTATION AS WTO CHAIR PROFESSOR.
- EXT P8 :** TRUE COPY OF THE ORDER DATED 16-01-2014 APPOINTING AS WTO CHAIR PROFESSOR.
- EXT P9 :** TRUE COPY OF THE PROCEEDING OF THE 1ST RESPONDENT DATED 22-12-2014.
- EXT P10 :** TRUE COPY OF THE ORDER DATED 14-01-2015 ISSUED BY THE 1ST RESPONDENT BY E-MAIL.
- EXT P11:** COPY OF THE COMMUNICATION DATED 15.1.2015 OF THE 1ST RESPONDENT UNIVERSITY.
- EXT P12:** COPY OF THE REPLY OF THE CHAIRMAN, SPICES BOARD DATED 20.1.2015.

(Contd...)

- EXT P13(a): COPY OF THE ORDERS DATED 1.1.2010 GRANTING LEAVE BY M.G. UNIVERSITY FOR STUDY/RESEARCH PURPOSES.
- EXT P13(b): COPY OF THE ORDERS DATED 10.3.2008 GRANTING LEAVE BY M.G. UNIVERSITY FOR STUDY/RESEARCH PURPOSES.
- EXT P14: COPY OF THE ORDER DATED 17.12.2014 OF THE M.G. UNIVERSITY.
- EXT P15: COPY OF THE COMMUNICATION SEEKING WILLINGNESS OF THE PETITIONER TO SERVE FOR AN EXTENDED PERIOD OF ONE YEAR FROM 16.1.2015 DATED 17.11.2014.
- EXT P16: COPY OF THE NEWS ITEM APPEARED IN MADHYAMAM DAILY DATED 1.9.2014.

RESPONDENT(S)' EXHIBITS :

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- EXT. R1(a) COPY OF THE LETTER DATED 22/1/2015 ISSUED BY THE REGISTRY, M.G. UNIVERSITY.
- EXT. R1(b) COPY OF THE PROCEEDINGS OF THE EXECUTIVE COMMITTEE DATED 27/7/2012 RECOMMENDING APPOINTMENT OF THE PETITIONER AS AN ASSOCIATE PROFESSOR.
- EXT. R1(c) COPY OF THE RELEVANT PAGES OF THE UGC REGULATIONS 2010.
- EXT. R1(d) COPY OF THE LETTER DATED 2/5/2013 ISSUED BY THE CHAIRMAN SPICES BOARD.
- EXT. R1(e) COPY OF THE MINUTES OF THE PEER REVIEW COMMITTEE MEETING HELD ON 11/11/2013.
- EXT. R1(f) COPY OF THE LETTER DATED 2ND DECEMBER 2013 ISSUED BY THE SECRETARY, SPICES BOARD.
- EXT. R1(g) COPY OF THE RELEVANT PAGES OF THE COMPLAINT DATED 27/8/2014 SUBMITTED BY MR. VINOD CHERUVANNUR.
- EXT. R1(h) COPY OF THE LETTER DATED 21/1/2015 ISSUED BY THE 1ST RESPONDENT TO THE SPICES BOARD.
- EXT. R1(i) COPY OF THE MEMORANDUM OF AGREEMENT BETWEEN THE 1ST RESPONDENT AND THE SPICES BOARD.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.1969 of 2015**  
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Dated this the 9th day of February, 2015

J U D G M E N T

This writ petition is directed against Ext.P10 decision of the Vice Chancellor of the Central University not to extend the period of deputation to the petitioner.

2. The petitioner, while working as Assistant Professor at M.G. University, was appointed as Assistant Professor on deputation in the department of International Relations in the Central University of Kerala. He was thereafter appointed as Associate Professor in the same department. The period of deputation was one year. Thereafter, the petitioner was also appointed as a WTO Chair Professor. The WTO Chair Professor is constituted based on a memorandum of

agreement by the Central University of Kerala with the Spices Board.

3. The parent University, M.G. University also issued its consent to appoint the petitioner as WTO Chair Professor in the Central University of Kerala.

4. The petitioner's term was to expire on 15/01/2015. Vide the order dated 22/12/2014, the petitioner's period of deputation as Associate Professor and WTO Chair Professor had been extended for a further period of one year with effect from 16/01/2015. The said order was cancelled by Ext.P10 proceedings dated 14/01/2015. It is mentioned in the proceedings that after verification of records and antecedents, the competent authority is not satisfied with the continuation of the writ petitioner in the institution and in interest of the University, the petitioner was ordered to be repatriated from the Central University with effect from 15/01/2015. The said order is under challenge before this Court.

5. Heard learned counsel for the petitioner Shri P.K.Ibrahim and the learned Standing Counsel for the Central University of Kerala Shri V.Sajti Kumar.

6. Learned counsel P.K.Ibrahim would argue that no material has been placed to show that the petitioner's activity or antecedents are detrimental to the University. Therefore, the decision of the University to repatriate petitioner on recording unsatisfactory antecedents has put a stigma on the petitioner's service and any decision thereon is unsustainable in law. The learned counsel relied on the decision of the Hon'ble High Court of Andhra Pradesh in **Dr.S.S.Waghe v. The Nizam Institute of Medical Sciences and others [CDJ 2005 APHC 596]**. The learned counsel also relied on the decision of the Hon'ble Supreme Court in **Union of India Through Government of Pondicherry and another v. V.Ramakrishnan and others [2005 KHC 1896]** and submits that when action

is taken with malice, the decision to cancel the deputation is unsustainable.

7. *Per contra* the learned counsel for the Central University of Kerala submits that the petitioner, as a matter of right, cannot claim right to continue in the Central University. He relied on various judgments including **State of Uttar Pradesh v. Girish Bihari** [Laws (SC)-1997-2-100] and also the decision of the Allahabad High Court in **Shambu Nath Lal Srivastava v. State of U.P. and others** [1984 (2) SLR 396].

8. The deputationist has no legal right to demand continuation of service in a post. The appointment of deputationist in a post is, essentially, based on the agreement between the lending and borrowing institutions. Admittedly, the period of the deputation expired on 15/01/2015. The decision relied on by the learned counsel for the petitioner, of the High Court of Andhra Pradesh in **Dr.S.S.Waghe's** case (*supra*) is relating to repatriation of a deputationist even before

the completion of the period of deputation stating that the work is not upto the satisfaction of the superior authorities. The above decision has no application in this matter. No doubt, when a deputation is cancelled in midway, it may result in some imbalance in the lending institution on account of sudden rejoining of the deputationist. In those circumstances, the borrowing institution has to be cautious while taking any action creating repercussions to the lending institutions.

9. As rightly pointed out by the learned counsel for the University, in **Girish Bihari's** case (*supra*), there is no vested right for a deputationist to continue in the service of the institution which borrowed the service. In **Kunal Nanda v. Union of India and another [(2000) 5 SCC 362]** it was held that "it is well settled that unless the claim of the deputationist for a permanent absorption in the department where he works on deputation is based upon any statutory rule,

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regulation or order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation."

10. It is well settled that any action which results in adverse civil consequence or penal action, requires compliance of principles of natural justice. The reasons stated in Ext.P10 order is regarding unsatisfactory antecedents of the petitioner and is therefore, unsustainable, as no opportunity was given to the petitioner before arriving at such a decision. This, necessarily, will cast stigma on the deputationist. However, that does not mean, if

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otherwise the petitioner has no right to continue in the service, merely because the reasons stated in the impugned order are unsustainable reasons, it will confer a right upon him to continue in the service. The period of deputation is over. Whatever be the reason for non continuation of the petitioner as a deputationist, the decision of the Central University cannot be questioned, as the petitioner has no right to demand continuation of his service. In such circumstances, I am of the view that the Central University is justified in cancelling the extension order before the same came into effect. However, the reasons stated therein cannot find a place in the record, as the same amounts to casting a stigma on the career of the writ petitioner. The reasons stated for cancelling the deputation is, therefore, unsustainable as the petitioner was never given an opportunity to contradict the adverse remarks made against him and

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interest of justice demands that these remarks have to be expunged.

11. This writ petition is disposed of as follows:
The petitioner's claim for right to continue as a deputationist in the Central University is declined and the reasons and remarks in Ext.P10 for cancelling the deputation are expunged. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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