

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 3589 of 2014 (W)

PETITIONER :

**GRISHA ANAND
ASSISTANT PROFESSOR, DEPARTMENT OF ENGLISH
MILAD-E-SHERIEF MEMORIAL COLLEGE, KAYAMKULAM
RESIDING AT 'ANANDA BHAVAN', ALUMPEEDIKA P.O, OACHIRA
KOLLAM.**

BY ADV. SRI.S.MUHAMMED HANEEF

RESPONDENT(S) :

- 1. PRINCIPAL,
MILAD-E- SHERIEF MEMORIAL COLLEGE,
KAYAMKULAM – 690502.**
- 2. UNIVERSITY OF KERALA,
REP. BY ITS REGISTRAR, UNIVERSITY CAMPUS
THIRUVANANTHAPURAM – 695034.**
- 3. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
KOLLAM - 691001**
- 4. STATE OF KERALA,
REP. BY ITS SECRETARY TO THE GOVERNMENT
HIGHER EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695001**

**R2 BY ADVS. SRI.GEORGE POONTHOTTAM, SC
SRI.BECHU KURIAN THOMAS, SC
R3 & R4 BY GOVT. PLEADER SMT. LOWSY A.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-03-2015,
ALONG WITH WP(C) NO. 10227/2014 & WP(C) NO. 11786/2014, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

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...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1 A TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE
MANAGER OF THE MILAD--SHERIEF MEMORIAL COLLEGE,
KAYAMKULAM, AS ORDER NOS. MSMT/TS/1/2012-13 DT- 20-09-2012.
- EXHIBIT P2 A TRUE COPY OF THE MUNUTES OF THE MEETING OF THE SECITON
COMMITTEE HELD AT 10 AM ON 19-09-2012.
- EXHIBIT P3 A TRUE COPY OF THE PROPOSAL AS PER COMMUNICATION
NO. G1/1307/2012 DATED 04-10-2012 OF THE IST RESPONDENT.
- EXHIBIT P4 A TRUE COPY OF THE ORDER NO. AC F. II/051145/2012 DATED
08-11-2012 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5 A TRUE COPY OF THE ORDER NO AC F1/1/036199/2009 DATED
04-01-2010 OF THE 2ND RESPONDENT.
- EXHIBIT P6 A TRUE COPY OF THE ORDER NO AC.F1/036851/2013 DATED
26-10-2013 OF THE 2ND RESPONDENT.
- EXHIBIT P7 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE MANAGER OF HER COLLEGE AS WELL AS
THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

- EXT. R2(a) COPY OF THE ORDER DATED 25.1.2013 ISSUED BY THE 4TH
RESPONDENT.
- EXT. R2(b) COPY OF THE CIRCULAR DATED 24.4.2013 ISSUED BY THE 4TH
RESPONDENT TO THE 3RD RESPONDENT.

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P.(C).Nos. 3589, 10227 and 11786 of 2014

Dated this the 9th day of March, 2015

J U D G M E N T

W.P.(C) No. 10227 of 2014 is filed by the Manager of an aided College. W.P.(C) No.3589 of 2014 and W.P.(C) No.11786 of 2014 are filed by the appointees in the aforesaid aided College.

2. The common issue in W.P.(C) No.10227 of 2014 and 3589 of 2014 is in relation to approval and concurrence of the appointments made in the aided college. W.P.(C) No.11786 of 2014 is filed by the same petitioner in W.P.(C) No.3589 of 2014 to consider the approval for the subsequent arisen vacancy. The fate of this case is depend upon the decision in W.P.(C) No.3589 of 2014.

3. The Manager appointed the petitioner in W.P.(C) Nos.3589 of 2014 namely Grisha Anand and Safeena.A as Assistant Professors in the Department of English and Physics respectively. This appointment was made on

20.9.2012. The University assessed the work load in the college and based on staff fixation, these appointments were made. However, the University did not approve the appointment finding that there is no sufficient work load in the English and Physics Department. The petitioner's case is that appointments are made against the retirement vacancies and no new posts were created. The petitioner relies on staff fixation and work load assessed by the University in the year 2010 and 2013 to substantiate their claim for appointment of the petitioner in the post.

4. In this matter a counter affidavit has been filed by the 2nd respondent as well as the 3rd respondent. The main contention taken is that the work load based on the University regulation has been replaced by the UGC regulations and therefore, the work load has to be assessed with respect to the UGC Regulation. It has been pointed out that the work load relied by the petitioner is based on the University Regulation and which requires each teaching post

should have 15 hours in a week. However, in UGC Regulation the work load for teaching posts is 16 hours in a week. Thus it is submitted that based on the work load as assessed by the UGC Regulation, there is no additional work load to engage the petitioners as Assistant Professors.

5. It is to be noted that the petitioners were appointed in the month of the September 2012. The Government issued order No. 87/2012 dated 12.3.2012 increasing the work load for Assistant Professor as 16 hours. However, the said Government order was frozen by the Government itself as per their letter dated 11.9.2012. Thereafter, the Government by Government Order No.8/13 H.Edn.dated 15.1.2013, reinstated the earlier Government order partially, and for a single faculty post work load has been determined as 6 to 8 hours. The Government subsequently informed that the Principal must handle 5 hours. The Government also now calculates the work load of Assistant Professors as 16 hours per week.

6. It is submitted by the learned Standing Counsel for the University that the University Regulation also have been amended subsequently to assess the work load. The fact remains that the work load assessment if reckoned by the University Regulation, the posts to which the appointments made are admissible. The subsequent amendment of the University Regulations fixing the work load cannot have a bearing in this matter as the same would only run prospectively to assess the work load in the College. In view of the fact that if the work load as prevailed in the college at the time of appointing teachers was fixed based on the unamended University Regulations, it can be relied for the purpose of approval of appointment of the petitioners. If that be so, I am of the view that the writ petitions are liable to be allowed. In the result W.P.(C) Nos.3589 of 2014 and 10227 of 2014 are allowed. There shall be a direction to approve the appointment of the petitioner and direct the respondents to disburse the salary from the date of their

appointment. Needful shall be done to disburse the arrears within a period of three months. The approval of appointment shall be done within three weeks. In view of the above writ petition, W.P.(C) No. 11726 has become redundant. No costs.

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/