

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 5639 of 2014 (D)

PETITIONER(S):

1. VALSAMMA RAJAPPAN NAIR @ SATHI,
W/O.RAJAPPAN NAIR, CHERUVALLITHARA HOUSE,
VENNIKULAM P.O., PATHANAMTHITTA , PIN-689 544.
2. RAJAPPAN NAIR,
S/O.PADMANABHAN NAIR, CHERUVALLITHARA HOUSE,
VENNIKULAM P.O., PATHANAMTHITTA , PIN-689 544.

**BY ADVS.SRI.LEGY ABRAHAM
SRI.ABE RAJAN**

RESPONDENT(S):

1. BHARAT SANCHAR NIGAM LIMITED,
REPRESENTED BY THE GENERAL MANAGER, TELEPHONES,
THIRUVALLA, PIN-689 101.
2. THE ASSISTANT GENERAL MANAGER (NWP).
BHARAT SANCHAR NIGAM LIMITED.
OFFICE OF THE GENERAL MANAGER, TELEPHONES,
THIRUVALLA, PIN-689 101/
3. THE SUB DIVISIONAL ENGINEER (NWP),
BHARAT SANCHAR NIGAM LIMITED, THIRUVALLA, PIN-689 101.
4. THE JUNIOR TELECOM OFFICER (GROUPS),
BHARAT SANCHAR NIGAM LIMITED, VENNIKULAM, PIN-689 544.
- * ADDITIONAL R5 IS IMPEADED.
5. TAHSILDAR, MALLAPPALLY.
- * IS IMPEADED AS ADDL. R5 AS PER ORDER DATED 19.12.2014 IN
IA.17374/2014.

R1 TO R4 BY SRI.MATHEWS K.PHILIP, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1:-TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT NO 7721/
11-12/PLG/3 DTD 27/10/2011 ADDRESSED TO 2ND PETITIONER.**

**EXT. P2:-TRUE COPY OF THE REPRESENTATION FILED BY THE 2ND PETITIONER
BEFORE THE 2ND RESPONDENT DTD 16/11/2011.**

**EXT. P3:-TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT NO 7721/
11-12/PLG/6 DTD 30/1/2012 ADDRESSED TO 2ND PETITIONER.**

**EXT. P4:-TRUE COPY OF THE RECEIPT ISSUED BY THE ACCOUNTS OFFICER OF THE
2ND RESPONDENT BOOK NO 219 RECEIPT NO 000064 DTD 8/2/2012.**

**EXT. P5:-TRUE COPY OF THE LETTER OF THE DY. GENERAL MANAGER (CM & HR)
CPIO, OFFICE OF THE 2ND RESPONDENT NO DGM (P & A)/RTI/VOL.VII/
2011-12/100 DTD 22/4/2013.**

**EXT. P6: TRUE COPY OF THE ESTIMATE, SPECIFICATION AND SKETCH PREPARED
BY THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

**EXT. R2(a): TRUE COPY OF THE REQUEST DATED 26.8.2013 GIVEN BY THE SUB
DIVISIONAL ENGINEER (GROUP), VENNIKULAM TO THE TAHSILDAR,
MALAPPALLY.**

**EXT.R2(b): TRUE COPY OF THE CHALAN RECEIPT DATED 2.1.2014 IN RESPECT OF
THE REQUIRED FEE OF RS.700/- REMITTED BY THE SUB DIVISIONAL
ENGINEER (GROUPS), VENNIKULAM FOR RESURVEY OF THE DISPUTED
LAND.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C).Nos.5685, 10609, 10703, 10727 & 10750 of 2014

Dated this the 21st day of January, 2015

J U D G M E N T

Writ petition Nos. 5685, 10609, 1073, 10727 and 10750 of 2014 are filed by the persons retired from the service from the Kerala University of Fisheries and Ocean Studies (for short the KUFOS), Panangad. They approached this Court on account of non disbursal of terminal benefits due to them reckoning the entire service which includes the service rendered by them in the Kerala Agricultural University.

2. Admittedly the stand of KUFOS is that, substantial year of service put in by the petitioners was with the Agricultural University and they are only liable to contribute pro-rata for the payment of terminal benefits due to the petitioners. It is on account of non-contribution of pro-rata amount by the Agricultural University, KUFOS is unable to pay entire terminal benefits to the petitioners by reckoning the period of service in the Kerala Agricultural University.

It is submitted by the learned counsel for the petitioners that in terms of Section 73 of the Kerala University of Fisheries and Ocean Studies Act, 2010 all properties and assets and liabilities and obligations vested and devolved upon the University. They also place reliance on G.O.(P) No.50/2011/F&PD, dated 10.5.2009 and submits that the assets and liabilities and obligations devolved upon the KUFOS and Agricultural University is not liable to pay terminal benefits due to the petitioners.

3. The learned Standing Counsel for the KUFOS submits that the amounts remitted by the staff of the parent institutions till 1.4.2011 have not been transferred to KUFOS, which is the newly formed University. It is further submits that the amount relates to General Provident Fund, FBS/WFS etc. and the accumulated amount in this respect would come to approximately Rs.7 Crores. It is further submitted that by reckoning the service of the petitioners in KUFOS, terminal benefits were given to the petitioners for the period they were worked in KUFOS. It is further submitted that the

University being a newly created University, they are unable to meet the entire liability of the employees, who became the employees of KUFOS by exercising option. Therefore, it is submitted that Agricultural University shall be directed to pay the pro-rata contribution by reckoning the service of the petitioners in the Agricultural University.

4. The writ petition No.5685 of 2014 is filed by the Kerala Veterinary and Animal Science University(for short 'the KVASU') against the Kerala Agricultural University claiming contribution of retirement and other benefits payable to the former staff under the Kerala Agricultural University, who are now working with the veterinary University. It is submitted that the Veterinary University being a newly formed University, they are unable to meet the liability to pay the terminal benefits of the employees, who have joined the KVASU by exercising option from Kerala Agricultural University. Therefore, it is submitted that the Agricultural University shall be directed to pay the contribution to the KVASU.

5. The learned Standing Counsel for the Agricultural University would submit that as per Section 55 of the Veterinary and Animal Sciences University Act, 2010, the entire liability of the employees has been devolved upon the KVASU and the Agricultural University has no liability.

6. Essentially, these disputes are among Universities in regard to sharing of the financial liabilities on account of formation of newly formed Universities and taking over the liabilities of the employees for payment of their terminal benefits. The Kerala Agricultural University was formed in the year 1970 under the Kerala Agricultural University Act. Later in order to streamline the activity relating to veterinary and animal husbandry relating to fisheries and ocean studies, two more Universities were formed by separating two major departments of Kerala Agricultural University. The Kerala University of Fisheries and Ocean Studies Act is enacted in the year 2010. The Kerala Veterinary and Animal Science Act is enacted in year 2011. It is pointed out by the Standing Counsel for

the KUFOS and the KVASU there is no transmission of any assets or financial obligations of the former. Therefore, the entire burden now casts upon the newly formed Universities, which are facing acute financial stringencies due to the meeting of the liability of the former staff of Kerala Agricultural University.

The universities are State instrumentalists. Any differences among them shall be resolved through high level committee. Therefore, it is necessary to constitute a high level committee by the Government to come out with a solution regarding the financial liabilities of KUFOS and KVAS for payment of terminal benefits of staff who were the employees of the Kerala Agricultural University. The Government shall constitute a Committee within a period of one month from the date of receipt of a copy of this judgment; it is open for the Government to decide the composition of the committee and the manner in which this has to be functioned. Needless to say that it shall consist of the high level officers of all the Universities. It shall come out with a solution within a period of

six weeks after the formation of the Committee.

However, the fact remains that the petitioners in W.P.(C) Nos. 10609, 10703, 10727 and 10750 of 2014 are retired from KUFOS. I am of the view they are entitled to all terminal benefits reckoning their service in the Kerala Agricultural University. The terminal benefits shall be paid by the KUFOS within a period of three months. However any payment to be made to the petitioners in those writ petitions will be subject to the decision of High Level Committee.

These writ petitions are disposed of as above. No costs.

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/