

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 8435 of 2013 (D)

PETITIONER(S) :

1. K.P.KUNHIRAMAN, S/O.KANNANKUNHI, AGED 60 YEARS,
ERINHIKKAL, P.O.ACHAMTHURUTHY, KASARAGOD DISTRICT.
2. K.V. KUNHIRAMAN, S/O.KUNHAMBU,
ERINHIKKAL, P.O.ACHAMTHURUTHY, KASARAGOD DISTRICT.
3. C.RAGHAVAN, S/O.KUNHIRAMAN,
OORI, P.O.PADNNA, CHERUVATHUR (VIA),
KASARAGOD DISTRICT.
4. K.V.KANNAN, S/O.RAMAN,
'MADHURIMA', KALEESWARAM P.O, KANKOLE,
PAYYANNUR (VIA), KANNUR DISTRICT.
5. T.V. KUNHIRAMAN, S/O.KANNAN,
'RAMALEELA', VALIYACHAL, KANKOLE P.O,
PAYYANNUR, KANNUR DISTRICT.

**BY ADVS.SRI.M.SASINDRAN
SRI.PRADEESH MATHEW**

RESPONDENT(S):

1. KERALA AGRICULTURAL UNIVERSITY,
VELLANIKARA, THRISSUR - 680 656,
REPRESENTED BY ITS REGISTRAR.
2. STATE OF KERALA -
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

**R1 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA, S.C,
R2 BY SR.GOVERNMENT PLEADER SMT.RAJASREE M.J**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-03-2015,
ALONG WITH W.P.(C).NO.10184 OF 2013 & W.P.(C).NO.12952 OF 2013,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: A TRUE COPY OF THE G.O(MS)NO.407/94/AD DATED 19-11-1994 ISSUED BY THE GOVERNMENT.**
- EXHIBIT-P2: A TRUE COPY OF THE ORDER NO.TP(3)27980/94 DATED 09-01-1995 OF THE DIRECTORATE OF AGRICULTURE, THIRUVANANTHAPURAM.**
- EXHIBIT-P3: A TRUE COPY OF THE PROCEEDINGS OF THE MEETING DATED 05-09-2008.**
- EXHIBIT-P4: A TRUE COPY OF THE LETTER SENT BY THE SECRETARY DATED 06-11-2008.**
- EXHIBIT-P5: A TRUE COPY OF THE INTIMATION ISSUED BY THE 1ST RESPONDENT DATED 16-05-2009.**
- EXHIBIT-P6: A TRUE COPY OF THE COMMUNICATION DATED 20-12-2012 ISSUED BY THE INFORMATION OFFICER OF THE GOVERNMENT.**
- EXHIBIT-P7: A TRUE COPY OF THE NOTE DATED 09-09-2009 NO.GA/G2/25022/09 (33/09) SHOWING THE DECISION OF THE 1ST RESPONDENT.**
- EXHIBIT-P8: A TRUE COPY OF THE INTIMATION DATED 13-12-2009 SENT BY THE 1ST RESPONDENT TO THE PRINCIPAL SECRETARY, AGRICULTURAL (FARMS) DEPARTMENT.**
- EXHIBIT-P9: A TRUE COPY OF THE INTIMATION ISSUED BY THE 2ND RESPONDENT DATED 16-06-2010.**
- EXHIBIT-P10: A TRUE COPY OF THE JUDGMENT IN W.A.NO.1726 OF 2004 DATED 11-01-2007.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos. 8435,10184 & 12952 OF 2013

Dated this the 3rd day of March, 2015

JUDGMENT

The petitioners had worked as pollination workers in the coconut farm under the Agricultural Department. The farms, which were under the Agricultural Department, had been taken over by the Agricultural University as per the Government Order dated 19/11/1994. Thus, the petitioners claim that they are all entitled to be absorbed in the service of the Agricultural University. They have approached this Court in O.P. No.33611/2000. The learned Single Judge of this Court directed the University to absorb the pollination workers under the Agricultural University. The Agricultural University challenged the order of the learned Single Judge in W.A. No.1726/2004. This Court did not interfere with the direction of the learned Single Judge. Thereafter, Ext.P8 proceedings have been issued by the University. In Ext.P8 the claim of the petitioners has been upheld. However, since all the petitioners herein have crossed the age of 55 years, they could not be absorbed in the service. Only 11 casual labourers were alone found eligible to be absorbed in the service as they have not

crossed the age of 55. Thus, 39 casual labourers could not be absorbed for the reason that they have crossed the age of 55 . It is challenging that order, these writ petitions are filed.

2. Heard the learned counsel for the petitioners Sri.M.Sasindran as well as Sri.Babu Joseph Kuruvathazha learned counsel appearing for the respondent University.

3. The learned counsel for the petitioners submits that it is on account of the delay attributable to the University, petitioners were not considered for absorption in the year 1994 itself. If the petitioners have been absorbed in the service year 1994 itself, they would have been entitled to all service benefits applicable to the other employees of the University. Therefore, it is submitted that a notional regularization shall be given to them for service benefits.

4. Learned Standing Counsel for the University submits that all the petitioners have crossed the age of 55 and they cannot be considered for absorption in the service considering the upper age limit for appointment. It is further submitted that all other pollination workers who have not crossed the age of 55 years have been absorbed in the service.

5. There is no doubt about the entitlement of the

petitioners to be absorbed in the service. Had they been absorbed in the service during the year 1994 itself, they would have continued in the service of the Agricultural University and they would have been entitled to draw all other pensionary benefits as applicable to the employees of the University. However, the petitioners were constrained to continue as Agricultural Labourers in the Agricultural Department without any regularisation.

6. I am of the view that, in the circumstances where absorption is impossible due to the age of the petitioners, the only remedy available for them is to claim some financial package to redress his/her grievance by taking note of the take home benefits of the petitioners if they were regularised in the Agricultural University. Therefore, the Government shall take a decision to provide some financial package to compensate the petitioners who were otherwise entitled to be regularised in the service in the Agricultural University.

7. Therefore, considering the peculiar facts and circumstances, appropriate decision shall be taken by the 2nd respondent to provide financial package to the petitioners to redress their grievance. Needful shall be done in this matter

within three months, after hearing anyone chosen as representatives by the petitioners.

The writ petitions are disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/True copy/ PS to Judge.

W.P.(C) No.8435/2013 & others

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