

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 10345 of 2011 (P)

PETITIONER :

**K.GIRINDRA BABU, AGED 49 YEARS,
S/O. RAMAN NAIR.K.(LATE), GENERAL SECRETARY,
KAU EMPLOYEES UNION, RESIDING AT KANNATH HOUSE,
KOTTAPADI.P.O., THRISSUR-680 505.**

**BY SRI.K.RAMAKUMAR,SENIOR ADVOCATE
ADVS. SMT.SMITHA GEORGE
SRI.RAHUL VENUGOPAL**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE SECRETARY TO DEPARTMENT OF AGRICULTURE,
GOVERNMENT OF KERALA,THIRUVANANTHAPURAM-695 001.**
- 3. THE SECRETARY TO DEPARTMENT OF FISHERIES,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695 001.**
- 4. THE UNIVERSITY GRANTS COMMISSION,
NEW DELHI, REPRESENTED BY ITS SECRETARY.**
- 5. THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
REPRESENTED BY ITS DIRECTOR GENERAL,
NEW DELHI.**
- 6. THE KERALA AGRICULTURAL UNIVERSITY,
VELLANIKARA, THRISSUR,
REPRESENTED BY ITS REGISTRAR.**

WP(C).NO.10345/2011

***ADDL.R7 IMPEADED**

***ADDL.R7: THE KERALA UNIVERSITY OF FISHERIES AND OCEAN STUDIES,
REPRESENTED BY ITS REGISTRAR, COLLEGE OF FISHERIES,
PANANGAD.P.O., KOCHI-682 506.**

***ADDL.R7 IS IMPEADED AS PER ORDER DATED 9/6/2011 IN IA.NO.6714/2011.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ
R4 BY ADV. SRI.S.KRISHNAMOORTHY, CGC
R6 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KERALA
SRI.K.P.MUJEEB, SC, KERALA AGRI UNIVERSITY
ADDL.R7 BY ADV. SRI.MILLU DANDAPANI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).NO.10345/2011

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER GO(P) 392/2010/H.EDN DATED 10/12/2010 ISSUED BY THE HIGHER EDUCATION DEPARTMENT, GOVERNMENT OF KERALA.**
- P2 COPY OF THE ORDER G.O.(P) NO.50/2011/F&PD DATED 10/3/2011 ISSUED BY THE GOVERNMENT.**

RESPONDENT'S EXHIBITS:

- R3(A) COPY OF THE G.O.(P) NO.50/2011/F&PD DATED 10/5/2011**
- R3(B) COPY OF THE G.O(P).NO.51/11/F&PD DATED 10/05/2011**
- R3(C) COPY OF THE MINUTES OF THE MEETING HELD ON 16/04/2011**

/TRUE COPY/

P.A.TO.JUDGE

sts

K.VINOD CHANDRAN, J

W.P.(C).No. 10345 of 2011

Dated 8th January, 2015

JUDGMENT

The above writ petition was filed at a stage when the Kerala Agricultural University was trifurcated and one of the Universities constituted was the University of Fisheries and Ocean Studies, under the Kerala University of Fisheries and Ocean Studies Act, 2010 (Act 5 of 2011).

2. The petitioner, an employee has filed the above writ petition in a representative capacity contending that the petitioner and other similarly placed employees of the Kerala Agricultural University have now been transferred to the University of Fisheries and Ocean Studies without giving them any option. In fact, the learned counsel for the respondent University would submit that, there could be no

such option given to the teaching staff since they are persons who have been appointed in the faculty of Fisheries and Ocean Studies and on the said faculties being constituted, under a different University, necessarily they would have to be transferred to the said University.

3. In any event, the apprehension of the petitioner and the cause of action for the above writ petition was the anticipated reduction in service benefits for reason of the University going out of the umbrella of the University Grants Commission (UGC)/Indian Council of Agricultural Research (ICAR).

4. The Government has filed a counter affidavit in which paragraph 6, 7 and 8 essentially would be in redressal of the grievances projected.

5. Paragraph 6, 7 and 8 are extracted hereunder.

“It is submitted that introduction of the UGC scheme and fixation of pay scale is done by the State Government. Usually, when the State Government issues order revising the pay scales to make it at par with UGC scale, the ICAR undertakes to meet a portion of the liability likely to arise because of instruction of the revised pay scale retrospectively. To this extent alone the ICAR/UGC is involved. Every order is issued by the Government in consultation with the UGC/ICAR and every time such orders are issued in the interest of the University employees are taken care off.

The allegation under para 3 of the writ petition that there is no infrastructure for the new University is false. The institution taken over by the new university are full fledged research and educational institutes with adequate infrastructure

satisfying all the stipulations of the academic bodies. The question of building additional infrastructure would arise only as and when the University proposes to enter into additional teaching and research activities.

The averment that staff, both teaching and non-teaching will be loosing salary under UGC scale is not true. Ext.P1 would show that the revised scale of pay has been made applicable to the staff both teaching and non teaching. Neither the new University Act, nor the Government Order (Ext.P1) say that the transferred employees would not get the benefits enjoyed by them. As per Sub-section (6) of Section 73 of the Act, their remuneration and conditions of service shall not be less favourable than those to which that person was entitled immediately before he become an employee of the University. In the above circumstances, the averments in para (3) are made without any basis and therefore, are unsustainable".

6. In view of the above, there would be no purpose in keeping the writ petition pending and if at all, any dispute is raised with respect to the service conditions of an employee, that can be agitated independently. In such circumstances, the writ petition would stand closed, with the above reservation.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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