

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 7522 of 2015 (M)

PETITIONER(S) :

**DR.RENJUMOL.V.S,
PALAZHYIL HOUSE, PRAYIKKARA, MAVELIKKARA P.O,
ALAPPUZHA-690 101.**

**BY ADVS.SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
SRI.K.P.CHANDRASEKHAR**

RESPONDENT(S) :

- 1. THE PRINCIPAL SECRETARY,
HEALTH & FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR,
AYURVEDA MEDICAL EDUCATION,
THIRUVANANTHAPURAM-695 001.**
- 3. THE PRINCIPAL,
GOVT. AYURVEDA COLLEGE, THIRUVANANTHAPURAM-695 001.**
- 4. THE REGISTRAR,
KERALA UNIVERSITY OF HEALTH & ALLIED SCIENCES,
MEDICAL COLLEGE PO, TRISSUR-680 596.**

**R1 TO R3 BY SR. GOVERNMENT PLEADER SRI.K.C.VINCENT
R4 BY ADV. SRI.P.SREEKUMAR, S.C**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE COPY OF THE MEDICAL CERTIFICATE DATED 14.09.2011.

**EXT P2 : TRUE COPY OF THE REPRESENTATION DATED 19.06.2013 OF
THE PETITIONER SUBMITTED TO THE 1ST RESPONDENT.**

**EXT P3 : TRUE COPY OF THE MERCY PETITION DATED 31.07.2014 OF
THE PETITIONER SUBMITTED TO THE HON'BLE MINISTER FOR
FINANCE.**

**EXT P4 : TRUE COPY OF THE COMMUNICATION DATED 02.08.2014 OF
THE 1ST RESPONDENT.**

**EXT P5 : TRUE COPY OF THE COMMUNICATION DATED 29.02.2015 OF
THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R.RAMACHANDRA MENON, J.

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioner has approached this Court seeking to set aside Exts.P4 and P5 and also seeking for a direction to the first respondent to reconsider the case of the petitioner sympathetically, so as to exempt her from payment of liquidated damages and allow her to repay the same in installments.

2. The petitioner is admittedly working as a Lecturer in Swasthavritha Ayurveda College, Thiruvananthapuram having obtained appointment under the physically handicapped quota. It is stated that the petitioner is having 60% disability. She got appointment as Medical Officer in the Government Ayurveda Dispensary at Ettumannoor on 19.3.2013 and thereafter as Lecturer in Swasthyvritha Government Ayurveda College, Kannur from 30.3.2013. The petitioner wants to put an end to the current assignment, in order to join the new institution where placement has been obtained. But by virtue of the stipulation to satisfy the liquidated damages, the petitioner found it extremely difficult to meet the requirement and hence submitted Ext.P3 petition to have a sympathetic view. But the

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first respondent rejected the request of the petitioner as per Ext.P4 dated 2.8.2014. Pursuant to Ext.P4, the third respondent has issued Ext.P5, whereby a total sum of ₹7,64,968/- has been demanded which includes the liquidated damages of ₹5,00,000/- + the stipend received as ₹2,64,968/-. The writ petition has been filed seeking for reconsideration of the matter, considering the plight of the petitioner.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader. The learned Government Pleader points out that the prayer to waive the liquidated damages is not possible, in view of the specific stipulations in this regard.

4. However, after hearing both the sides and also considering the physical infirmity of the petitioner, this Court finds that some accommodation can be given to the petitioner within the permissible limits, so as to enable the petitioner to join the new post, at the same time enabling her to liquidate the liability in a phased manner. Accordingly, the petitioner is required to satisfy the entire stipend received, an extent of ₹2,64,968/- forthwith, subject to which, the coercive proceedings shall be kept in abeyance for the time being. Liquidated damages to the extent of ₹5,00,000/- shall stand permitted to be cleared by way of reasonable installments by effecting recovery to an appropriate extent from the salary payable to the petitioner. On

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satisfaction of the sum of ₹2,64,968/- towards the stipend received, the petitioner is set at liberty to approach the Government by filing a representation for clearing the liquidated damages by way of instalments, also producing a copy of the receipt as to the satisfaction of the stipend. On such an event, the application shall be considered and appropriate orders shall be passed by the first respondent, granting necessary installments, to have recovery from the salary of the petitioner, till the entire liquidated damages get cleared.

The writ petition is disposed of. The petitioner shall produce a copy of this judgment along with a copy of the writ petition, before the first respondent for further steps.

Sd/-

**P.R.RAMACHANDRA MENON,
JUDGE.**

rkc.