

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

W.P.(C).No.18599 of 2006 (L)

PETITIONER(S):-

DR.C.BINDUKUMARI,
TUTOR, ORGANON OF MEDICINE, ATHURASRAMAM,
N.S.S. HOMEOPATHIC MEDICAL COLLEGE, SACHIVOTHAMAPURAM,
KURICHY, KOTTAYAM.

BY ADVS.SRI.R.RAJASEKHARAN PILLAI
SRI.M.S.NISHAD
SMT.SABINA JAYAN.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE PRINCIPAL, GOVT. HOMEOPATHIC MEDICAL COLLEGE,
IRANIMATTOM, THIRUVANANTHAPURAM-9.
3. THE PRINCIPAL ANSS,
HOMEO MEDICAL COLLEGE, SACHIVOTHAMAPURAM, KURICHY,
KOTTAYAM.
4. THE CHAIRMAN,
GOVERNING BODY, ANSS, HOMEO MEDICAL COLLEGE,
NSS HEAD OFFICE, PERUNNA, CHANGANASSERY.

R1 & R2 BY GOVERNMENT PLEADER SRI.T.R.RAJESH.
R3 & R4 BY ADV. SRI.P.GOPAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-11-2015, ALONG WITH WP(C).37545/2007-T & WP(C). 20658/2010-F, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE SENIORITY LIST OF THE TEACHERS OF THE COLLEGE ISSUED AS PER THE ORDER DT.13.8.98.
- EXT.P2 TRUE COPY OF THE ORDER G.O.(MS) NOI.154/97/H&FWD DATED 6.5.1997.
- EXT.P3 TRUE COPY OF THE PROCEEDINGS OF THE PRINCIPAL, GOVT. HOMOEOPATHIC MEDICAL COLLEGE, THIRUVANANTHAPURAM DATED 16.10.97.
- EXT.P4 TRUE COPY OF THE RELEVANT EXTRACT OF THE REPORT AND RECOMMENDATION OF CCH DATED 14.09.2002 IN RESPECT OF THE COLLEGE.
- EXT.P5 TRUE COPY OF THE LETTER INDICATING THE LIST OF STAFF PREPARED BY THE 3RD RESPONDENT DT.8.7.1994.
- EXT.P6 TRUE COPY OF THE JUDGMENT DATED 24.10.2002 IN O.P. NO.30933 OF 2002 OF THIS HON'BLE HIGH COURT.
- EXT.P7 TRUE COPY OF THE ORDER NO.1228/C1/05/GHMCT. DATED 15.5.2005 OF THE 1ST RESPONDENT.
- EXT.P8 TRUE COPY OF THE RELEVANT EXTRACT OF THE INSPECTION REPORT OF THE CENTRAL COUNCIL HOMEOPATHY.
- EXT.P9 TRUE COPY OF THE REPRESENTATION DATED 19.8.2006 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P10 TRUE COPY OF THE JUDGMENT DATED 23.7.2007 IN O.P.NO.18069/2001 OF THIS HON'BLE COURT.
- EXT.P11 TRUE COPY OF THE G.O.(RT) NO.27/2005/H&FWD DATED 4.1.2005.

RESPONDENT'S EXHIBITS:-

- EXT.R1(a) PHOTOSTAT COPY OF THE REPRESENTATION DATED 23.6.2011 FILED BY THE PETITIONERS IN W.P.(C).NO.27675 OF 2008.

- EXT.R4(a) TRUE COPY OF THE ANNEXURE-C OF AMENDED REGULATIONS 7(iii) AND 7(2) OF THE HOMEOPATHY (MINIMUM STANDARDS OF EDUCATION) REGULATIONS.
- EXT.R4(b) TRUE COPY OF THE ORDER DATED 12.8.1997 OF THE GOVERNMENT.
- EXT.R4(c) TRUE COPY OF THE JUDGMENT DATED 10.7.2000 IN O.P.NO.19187/2000.
- EXT.R4(d) TRUE COPY OF THE LETTER DATED 9.1.2001 OF THE GOVERNMENT.
- EXT.R4(e) TRUE COPY OF THE LETTER DATED 6.12.2003 ALONG WITH THE STATEMENT SUBMITTED BY THE MANAGEMENT BEFORE THE PRINCIPAL & CONTROLLING OFFICER, GOVERNMENT HOMOEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.
- EXT.R4(f) TRUE COPY OF THE JUDGMENT DATED 23.7.2007 IN O.P.NO.18069/2001.
- EXT.R4(g) TRUE COPY OF THE ORDER DATED 9.05.2008 OF THE GOVERNMENT.
- EXT.R4(h) TRUE COPY OF THE ORDER DATED 1.3.2011 OF THE GOVERNMENT.
- EXT.R4(i) TRUE COPY OF THE JUDGMENT DATED 10.3.2011 IN W.P.(C).NO.25765 OF 2008.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).Nos.18599 of 2006-L,
37545 of 2007-T & 20658 of 2010-F

Dated this the 09th day of November, 2015

JUDGMENT

The three writ petitions raise a claim for promotion to the post of Professor from the post of Lecturer/Reader, especially since the college, which is the identical respondent in all the above writ petitions, does not have a post of Reader. Admittedly while the writ petitions were pending, all the three petitioners were promoted as Professors from the post of Lecturer/Tutor, which has also been approved by the Government. In such circumstance, the claim put forward by the petitioners is that the petitioners would be entitled to such retrospective promotion also. That is not addressed by the Government as of now and the order promoting the petitioners is also not seen produced. In such circumstance, the petitioners would be entitled to move the Government for consideration of their claim for retrospectivity. The representation shall be filed within a period of two weeks

from the date of receipt of a certified copy of this judgment, through the management. If a representation is made as directed above, the same shall be considered expeditiously. It is made clear that this Court has not made any observation on merits and the issue of retrospectivity would have to be considered by the appropriate authority in accordance with law.

The petitioners are reserved such liberty and the writ petitions would stand closed, leaving open all contentions of the petitioners. Parties are left to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]