

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 9137 of 2015 (N)

PETITIONER

**DR.VINU T.VADAKEL , AGED 37 YEARS
ASSISTANT PROFESSOR, DEPARTMENT OF PHYSICS
ST.ALOYSIUS COLLEGE, EDATHUA, ALAPPUZHA DISTRICT.**

BY ADV. SRIP.DEEPAK

RESPONDENT(S):

- 1. THE DEPUTY DIRECTOR OF COLEGIATE EDUCATION
KOTTAYAM 686001.**
- 2. THE MAHATMA GANDHI UNIVERSITY
REPRESENTED BY ITS REGISTRAR, ATHIRAMPUZHA
KOTTAYAM-686525.**
- 3. ST.ALOYSIUS COLLEGE
EDATHUA, ALAPPUZHA DISTRICT, REPRESENTED BY ITS MANAGER
EDATHUA, ALAPPUZHA-680121.**

**R BY GOVERNMENT PLEADER SRI. M.A. FAYAZ
R BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 9137 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1:** **A TRUE COPY OF THE DOCTORATE AWARDED TO THE PETITIONER BY THE 2ND RESPONDENT UNIVERSITY.**
- EXHIBIT-P2:** **A TRUE COPY OF THE APPOINTMENT ORDER DATED 29.10.2013 ISSUED BY THE 3RD RESPONDENT.**
- EXHIBIT-P3:** **A TRUE COPY OF THE UNIVERSITY ORDER DATED 11.11.2014.**
- EXHIBIT-P4:** **A TRUE COPY OF THE COMMUNICATION DATED 02.03.2015 OF THE 1ST RESPONDENT RETRANSMITTING THE SALARY BILL.**
- EXHIBIT-P5:** **A TRUE COPY OF THE RECEIPT DATED 25.06.2012 ISSUED BY THE 2ND RESPONDENT UNIVERSITY.**

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

P.A TO JUDGE

SMM

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 9137 OF 2015

Dated this the 8th day of April , 2015

JUDGMENT

The petitioner, pursuant to the notification issued in the month of May 2013, was appointed as an Assistant Professor in the Department of Physics with effect from 29/10/2013. The respondent University approved the appointment. However, the first respondent-Deputy Director of Collegiate Education, Kottayam, objected the payment of salary to the petitioner pointing out that as on the date of notification, the petitioner does not possess Ph.D.degree which is one of the requisite qualifications as per the notification. It is challenging this action of the first respondent, the petitioner approached this Court.

2. It is an admitted case that as on the date of notification, the petitioner was not awarded Ph.D. degree. The petitioner contends that she has submitted Ph.D. thesis to the 2nd respondent University on 25/6/2012. But, there was an administrative delay occurred on the part of the 2nd

respondent in holding the open defense and awarding Ph.D.Degree. Ultimately, Ph.D. Degree was awarded to the petitioner on 30/9/2013.

3. The duty cast upon the Director of Collegiate Education is to verify whether the appointment is in order. Their duty essentially is to verify whether the appointee has possessed necessary qualification as on the date of appointment and whether the appointee has been appointed to the admissible post. The petitioner fulfilled both the conditions. The selection committee which selected the petitioner, consists of duly nominated person of the Government . The Director of Collegiate Education cannot be sit upon the decision of the selection committee to find out that the petitioner, as on the date of the notification, has no qualifications. In view of the matter that the power of the Director of Collegiate Education is only to find out the qualifications of the appointee as well as to verify whether appointment of the appointee was under a substantial vacancy, same power cannot be extended to undo a selection process. Thus the objections raised on the part of the Director Collegiate Education is unsustainable.

4. Therefore, in the light of the law as stated above,

based on the approval granted by the University, the salary including arrears shall be disbursed to the petitioner without delay. Arrears of salary shall be given to the petitioner within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/true copy/ P.S to Judge.

