

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9509 of 2014 (K)

PETITIONER(S):

1. SREENISH.T.V, AGED 28 YEARS
S/O. K.KUNJIRAMAN, ASSISTANT PROFESSOR,
DEPARTMENT OF POLITICAL SCIENCE,
SREE NARAYANA COLLEGE, CHEMPAZHANTHY.
RESIDING AT THILATHIL HOUSE,
PERUVALATHU PARAMBA P.O., IRIKKUR(VIA)
KANNUR DISTRICT-670593.

2. PRADEEP S.
ASSISTANT PROFESSOR, DEPARTMENT OF POLITICAL SCIENCE,
SREE NARAYANA COLLEGE, PUNALUR,
RESIDING AT PRADEEP SADANAM, PANAPETTY, PORUVAZHI P.O.
KOLLAM-690 520.

BY ADVS.SRI.P.C.SASIDHARAN
SRI.AJAYA KUMAR. G

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 001.

3. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
KOLLAM-691 001.

4. UNIVERSITY OF KERALA ,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS
THIRUVANANTHAPURAM-695 034.

5. THE PRINCIPAL
SREE NARAYANA COLLEGE, CHEMPAZHANTHY, PIN-695 587.

6. THE PRINCIPAL,
SREE NARAYANA COLLEGE, PUNALUR, PIN-691 305.

7. MANAGEMENT OF SREE NARAYANA COLLEGES ,
REPRESENTED BY ITS MANAGER
THE SREE NARAYANA TRUST P.B.NO.63, VARKALA
PIN-695 141.

R1 -R 3 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
R4 BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA

R7 BY ADV. SRI.A.N.RAJAN BABU
R BY GOVERNMENT PLEADER SMT.M.J.RAJASREE
R BY SRI.GEORGE POONTHOTTAM, SC, KERALA UTU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE APPOINTMENT ORDER NO.2/SNT/2779(V) DTD.1.10.2012 OF THE 1ST PETITIONER.

P2 : COPY OF THE APPOINTMENT ORDER NO.2/SNT/2779(XII) DTD.1.10.2012 OF THE 2ND PETITIONER.

P3 : COPY OF THE MINUTES OF THE MEETING OF THE SELECTION COMMITTEE DTD.21.8.2012 SHOWING THE RANK LIST OF SELECTED CANDIDATES.

P4 : COPY OF THE STATEMENT OF WORK LOAD FOR THE YEAR 2011-2012 AT SREE NARAYANA COLLEGE, CHEMPAZHANTHY.

P5 : COPY OF THE STATEMENT OF WORK LOAD FOR THE YEAR 2011-2012 AT SREE NARAYANA COLLEGE, PUNALUR.

P6 : COPY OF THE ORDER NO.ACF III/2/7465/2013, DTD.1.10.2013.

P7 : COPY OF THE LETTER NO.A3/10605/13 DTD.8.2.2014 OF THE 3RD RESPONDENT.

P8 : COPY OF THE LETTER NO.A4/10428/13 DTD.28.2.2014 OF THE 3RD RESPONDENT.

P9 : COPY OF THE ORDER NO.A1/10605/2013 DTD.30.1.2012 ISSUED BY THE 2ND RESPONDENT.

P10: COPY OF THE ORDER NO.2/SNT/283/ DTD.11.3.2014 OF THE 7TH RESPONDENT.

P11: COPY OF THE LETTER DTD.11.3.2014 ISSUED BY THE 7TH RESPONDENT TO THE 2ND RESPONDENT.

P12: COPY OF THE JUDGMENT DTD.7.3.2014 IN WPC NO.1485/2014.

RESPONDENT(S) ' EXHIBITS

EXT.R4(A): COPY OF THE LIST OF TEACHERS FORWARDED BY THE 5TH RESPONDENT TO THE 4TH RESPONDENT.

EXT.R4(B): COPY OF THE LETTER NO.AC FIII/2/7465/2013 DATED 13/2/2014 ISSUED BY THE 4TH RESPONDENT TO THE 3RD respondent.

EXT.R4(C): COPY OF THE ORDER NO. AC FIII/2/7465/2013 DATED 5/7/2014

EXT.R4(D): COPY OF THE REVISED WORK LOAD ASSESSMENT AND STAFF FIXATION ORDER FOR THE ACADEMIC YEAR 2011 - 2012 DATED 11/6/2014.

/TRUE COPY/ PS TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.9509 OF 2014

Dated this the 26th day of March, 2015

JUDGMENT

Petitioners are working as Assistant Professors in different colleges coming under the 7th respondent-Management of Sree Narayana Colleges. Approval for the first petitioner's appointment was granted by the University. However, no salary has been disbursed on the ground that there is no sufficient work load.

2. Going by the assessment of the work load for the year 2011 - 2012, produced as Ext.P4, work load is 58 hours per week. The admissible posts are 4+1(four Assistant Professors + one Principal). The University submitted that there is no sanctioned post based on the work load. It is seen that subsequently a meeting was held by the Government on 24/11/2014, in which it was held that approval can be granted to the appointment of Sri.Sreenish(the first petitioner herein), S.N.College, Chempazhanthu with effect from 1/6/2013 in the vacancy of Principal transferred to S.N College, Punalur. It was also decided to direct the Management to pay the salary to the first petitioner from

11/10/2012 to 31/5/2013 as agreed by the Management.

3. In that view of the matter, it can be considered that the Government has sanctioned the post and taking note of the fact that the University has granted approval, the first petitioner is entitled to salary. Thus, the first petitioner is entitled for salary with effect from 11/10/2012 onwards. The agreement made by the Government with the Management shall be worked out independently as to payment of salary from 11/10/2012 to 31/5/2013.

4. In view of the above facts, the Deputy Director of Collegiate Education concerned, shall release salary from 11/10/2012 to the first petitioner without any delay, at any rate, within three months from the date of receipt of a copy of this judgment.

5. It is open for the Government to recover the salary from 11/10/2012 to 31/5/2013, if so warranted from the Management.

6. In the matter of the 2nd petitioner, approval has been granted as per Ext.P6 with effect from 1/10/2012. It is submitted by the learned counsel for the Management that since the Principal of SN College, Chempazhanthy has been

transferred to SN College, Punalur, treating the 2nd petitioner as excess, the authority refused the salary to the 2nd petitioner. I am of the view that whether the 2nd petitioner has become excess, or supernumery, has to be decided in appropriate manner. Salary from 1/10/2012 shall be paid to the 2nd petitioner. However, it is open for the Directorate of Collegiate Education to find out whether the 2nd petitioner is continuing as excess or supernumery in the post on account of transfer of Principal of SN College Chempazhanchy to SN College Punalur, where the 2nd petitioner is appointed. Payment of the salary to the 2nd petitioner shall be subject to the decision to be taken by the Deputy Director of Collegiate Education. Subject to the enquiry, salary payable from the date of the appointment shall be paid to the 2nd petitioner. Within three months.

The writ petition is disposed of . No costs.

Sd/-

A.MUHAMED MUSTAQUE,

Judge.

dpk

/true copy/ PS to Judge.

