

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 13380 of 2012 (V)

PETITIONER(S):

**DR.DINESH K.S. AGED 37 YEARS
S/O.SUBRAMANNIAN SENIOR LECTURER DEPARTMENT OF
KAUMARABHITYA VAIDYARATNAM P.S VARRIER AYURVEDA COLLEGE
KOTTAKKAL EDARIKODE P.O MALAPPURAM DISTRICT 676501
NOW RESIDING AT KARAYIL HOUSE THUSHARAGIRI, OLD SABEENA
ROAD, CHANGARAMKULAM, MALAPPURAM DISTRICT KERALA 679585**

**BY ADVS.SRI.N.M.MADHU
SMT.C.DEVIKA RANI KAIMAL
SMT.C.S.RAJANI**

RESPONDENT(S):

- 1. THE EXECUTIVE DIRECTOR,
KERALA AYURVEDA STUDIES & RESEARCH SOCIETY
KOTTAKKAL, EDARIKODE P.O., MALAPPURAM DISTRICT 676501**
- 2. KERALA UNIVERSITY OF HEALTH SCIENCES
REP.BY ITS REGISTRAR MEDICAL COLLEGE PO THRISSUR PIN 680596**
- 3. GOVERNMENT OF KERALA
REP. BY THE SECRETARY TO THE HEALTH AND
FAMILY WELFARE DEPARTMENT GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM**
- 4. THE PRINCIPAL
VAIDYARATNAM PS VARRIER AYURVEDA COLLEGE
KOTTAKKAL, EDARIKODE P.O,
MALAPPURAM DISTRICT 676 501**
- 5. DR.NAZEEMA P.K
READER, DEPARTMENT OF KAUMARABHITYA,
VAIDYARATNAM P.S VARRIER AYURVEDA COLLEGE, KOTTAKKAL
EDARIKODE P.O, MALAPPURAM DISTRICT 676501**

**R1 BY ADV.SRI.T.R.RAVI
R5 BY ADV.SRI.B.UNNIKRISHNA KAIMAL
R BY GOVERNMENT PLEADER SMT.LOWSY.A.
R BY SRI.P.SREEKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 30.5.2012 ISSUED BY THE FIRST RESPONDENT.

EXT.P2: COPY OF THE EXPERIENCE CERTIFICATE DATED 2.1.2012 ISSUED BY THE DIRECTOR OF VISHNU AYURVEDA COLLEGE.

EXT.P3: COPY OF THE PROCEEDINGS DATED 19.8.2008 ISSUED BY THE FIRST RESPONDENT.

EXT.P4: COPY OF THE ORDER DATED 3.3.2008.

EXT.P5: COPY OF THE PROCEEDING DATED 30.11.2009 ISSUED BY THE FIRST RESPONDENT.

EXT.P6: COPY OF THE ORDER DATED 13.9.2010 ISSUED BY THE THIRD RESPONDENT.

EXT.P7: COPY OF THE PROCEEDINGS DATED 1.11.2010 ISSUED BY THE FOURTH RESPONDENT.

EXT.P8: COPY OF THE PROCEEDINGS DATED 1.11.2010 ISSUED BY THE FIRST RESPONDENT.

EXT.P9: COPY OF THE PROCEEDING DATED 7.2.2013 ISSUED BY SECOND RESPONDENT.

RESPONDENTS EXHIBITS:

EXT.R5(A): COPY OF THE RANKED LIST FOR APPOINTMENT TO THE POST OF TUTOR IN THE DEPARTMENT OF PRASOONTHITHANTHRA IN THE 4TH RESPONDENT COLLEGE.

EXT.R5(B): COPY OF THE ORDER NO.E1-2611/05/KASRS DATED 19.4.2008 ISSUED BY THE 1ST RESPONDENT.

EXT.R5(C): COPY OF THE G.O.(RT) NO.2486/2010/H&FWD DATED 24.6.2010.

EXT.R5(D): COPY OF THE ORDER NO.E1-2143/2011/KASRS DATED 13.12.2011 ISSUED BY THE 1ST RESPONDENT.

EXT.R5(E): COPY OF THE ORDER NO.059/AC II/KUHS/2013 DATED 19.3.2013 ISSUED BY THE 2ND RESPONDENT.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.13380 OF 2012 (V)

Dated this the 13th day of July, 2015

J U D G M E N T

The petitioner approached this Court challenging the appointment of the 5th respondent to the post of Reader in the Department of Kaumarabhritya in the 4th respondent College. Although various contentions are raised in the writ petition, challenging the appointment of the 5th respondent to the post of Reader to the extent it prejudiced the petitioner in the matter of seniority between the petitioner and the 5th respondent in the category of Reader, counsel for the petitioner would now submit that, by an order dated 15.6.2014, he has been promoted as an Associate Professor by way of non-cadre promotion and he is working in the said category. Taking note of the said submission, I am of the view that the petitioner cannot now be prejudiced by any appointment granted to the 5th respondent in the post of Reader inasmuch as he has already been promoted to the post of Associate Professor by way of non-cadre promotion on 15.6.2014 and, in the cadre of Associate Professor, the petitioner will be senior to the 5th respondent as and when the 5th respondent gets promoted to the post of Associate Professor. Thus, without going into the legality of the appointment of the 5th respondent, to the post of Reader, which even according to the

petitioner need not be decided in view of the changed circumstances, I dispose the writ petition directing the 1st and 4th respondents to take note of the prior promotion of the petitioner to the post of Associate Professor, as also the seniority that would accrue to the petitioner over the 5th respondent, while choosing a candidate for appointment as the Head of the Department [HOD] of the Kaumarabhritya Department of the College. The 1st and 4th respondents shall pass consequential orders in the matter of appointing an HOD of the Kaumarabhritya Department within one month from today. I also direct the 2nd respondent University to regularise the approval of the appointment of the petitioner, pursuant to Ext.R5(e) order already passed by the 2nd respondent. The 2nd respondent shall also, consequent to the regularisation of the approval to the appointment of the 5th respondent as Reader, disburse the salary and other allowances that are due and payable to the 5th respondent, within three months from the date of receipt of a copy of the judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp