

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 10568 of 2014 (U)

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PETITIONER(S) :

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SUBHASH K.M. ,  
ASSISTANT PROFESSOR (UNDER SUSPENSION) ,  
DEPARTMENT OF ELECTRICAL ENGINEERING,  
NATIONAL INSTITUTE OF TECHNOLOGY, CALICUT,  
PIN: 673 601, RESIDING AT MAVILA VEEDU, ROHINI,  
SINGLE STREET LANE, BALARAMAPURAM P.O.,  
THIRUVANANTHAPURAM, PIN: 695 501.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY  
SMT.N.SANTHA  
SRI.K.A.BALAN  
SRI.PETER JOSE CHRISTO  
SRI.S.A.ANAND.

RESPONDENT(S) :

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1. NATIONAL ISTITUTE OF TECHNOLOGY,  
CALICUT, NIT CAMPUS P.O., CALICUT,  
PIN: 673 601,  
REPRESENTED BY ITS REGISTRAR.
2. THE DIRECTOR,  
NATIONAL INSTITUTE OF TECHNOLOGY, CALICUT,  
NIT CAMPUS P.O., CALICUT, PIN: 673 601.

BY ADV. SRI. MILLU DANDAPANI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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EXT.P1: TRUE COPY OF THE ORDER NO.P2/3364/2007 DATED 11/01/2013  
OF THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE LETTER NO.561/CB/HHWI/SU/13 DATED  
09/10/2013.

EXT.P3: TRUE COPY OF THE NOTE NO.P2/3364/2007 DATED 17/10/2013 OF  
THE REGISTRAR OF NIT, CALICUT.

EXT.P4: TRUE COPY OF THE REPORT OF THE REVIEW COMMITTEE.

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 04/03/2014 FILED BY  
THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF THE ORDER DATED 15/05/2014 OF THE DIRECTOR,  
NATIONAL INSTITUTE OF TECHNOLOGY, CALICUT.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C)No.10568 of 2014

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Dated this the 4<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioner was under suspension pursuant to criminal prosecution for having committed offences under Sections 376, 302 and 201 of the Indian Penal Code with effect from 29.12.2012. Thereafter, Review Committee constituted in terms of Rule 10(4) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 to review continuation of suspension of the petitioner. As per the Review Committee's report dated 7.11.2013, the Committee recommended to continue the suspension up to 31.1.2014 anticipating that the criminal case will be disposed off quickly in the Court. It is further recommended that if it extends beyond 31.1.2014, the suspension shall be revoked and the petitioner shall be re-inducted to the Institute with effect from 1.2.2014.

2. The petitioner approached this Court on account of non-implementation of the recommendation of the Review Committee. The petitioner also had preferred Ext.P5 representation based on the Review Committee's recommendation. This was rejected. As matter stands now, the Review Committee's report stands recommending re-induction of the petitioner from 1.2.2014.

3. It is admitted before this Court that the criminal case is yet to be concluded.

4. In this matter, a counter affidavit has been filed by the respondents. It is stated in the counter affidavit that the Institute is of the view, the public interest as well as the interest of the Institute, the petitioner cannot be re-inducted. It is further submitted that the values and ethics, followed in Indian Society place the teacher in a very exalted a hallowed position and unless the petitioner is cleared by the Criminal Court against charges against him, it may be difficult for the

Institute to continue with the service of the petitioner.

5. Fact remains in this case that the Review Committee ordered re-induction of the petitioner with effect from 1.2.2014. The law presumes innocence of the accused unless it is proved otherwise. Any erroneous notion entrenched by the Society about an accused, cannot bye-pass a statutory recommendation. The recommendation given by the statutory committee has to be given effect.

In view of the above, the petitioner shall be reinstated within a period of two weeks from the date of receipt of a copy of this judgment. It is open for the Institute to allocate any other assignment to the petitioner as per law.

The writ petition is disposed of as above. No costs.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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