

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 24668 of 2006 (J)

PETITIONER(S):

**P.MOHANAN NAIR
SHREE VIDHYADHIRAJA HOMEOPATHIC MEDICAL COLLEGE
NEMOM P.O. THIRUVANANTHAPURAM 695 020.**

**BY ADVS.SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.NAVEEN.T**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, HEALTH AND FAMILY WELFARE DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. UNIVERSITY OF KERALA, REPRESENTED BY
ITS REGISTRAR, THIRUVANANTHAPURAM.**
- 3. THE PRINCIPAL AND CONTROLLING OFFICER,
GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE
THIRUVANANTHAPURAM.**
- 4. SHREE VIDHYADHIRAJA VIDYA SAMAJAM,
EAST ALUMMOOD BUNGLOW, CHETTIKULANGARA
THIRUVANANTHAPURAM. 1.**
- 5. THE PRINCIPAL,
SHREE VIDHYADHIRAJA HOMEOPATHIC MEDICAL COLLEGE
NEMOM P.O. THIRUVANANTHAPURAM.**

**R,R2 BY ADV. SRI.S.GOPAKUMARAN NAIR, SC KERALA UTY.
R,R2 BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
R,R2 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.
R1 BY ADV. GOVERNMENT PLEADER SRI. T.R. RAJESH
R BY ADV. SRI. BECHU KURIAN THOMAS, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE SERVICE BOOK OF THE PETITIONER.**
- EXT.P2 COPY OF THE ORDER DATED 1.4.90 ISSUED TO THE
PETITIONER BY THE 4TH RESPONDENT.**
- EXT.P3 COPY OF THE COMMUNICATION DATED 9.6.05 SENT BY THE
4TH RESPONDENT TO THE FIRST RESPONDENT.**
- EXT.P4 COPY OF THE LAWYER NOTICE DATED 27.7.06 SENT BY
ADVOCATE V.R.RAJMOHAN NAIR TO THE PETITIONER.**
- EXT.P5 COPY OF THE COMMUNICATION DATED 31.7.06 ISSUED BY THE
5TH RESPONDENT TO THE MANAGER, CANARA BANK,
PUTHENCHANTHAI BRANCH, THIRUVANANTHAPURAM.**
- EXT.P6 COPY OF JUDGMENT DATED 3.4.06 IN W.P.(C) NO.17818/05 ETC.
OF THIS HON'BLE COURT.**
- EXT.P7 COPY OF PROCEEDINGS DATED 10.8.06 ISSUED BY THE
PRINCIPAL OF THE COLLEGE.**
- EXT.P8 COPY OF ORDER G.O(RT) NO.3643/03/H&FWD DT.24.12.03
ISSUED BY THE GOVERNMENT.**

RESPONDENTS EXHIBITS:

- EXT.R2(A) COPY OF AGREEMENT EXECUTED WITH THE GOVERNMENT.**

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.24668 of 2006 - J

=====

Dated this the 1st day of September, 2015

J U D G M E N T

The petitioner claims continuance till 60 years by virtue of Rule 60(b) of Part I of Kerala Service Rules. The petitioner admittedly was appointed as a peon in the 5th respondent college on 01.01.1968 and retired on completion of 55 years in May 2004. The petitioner contends that by virtue of Rule 60(b) of Part I of K.S.R, the petitioner was entitled to be continued till 60 years and hence claimed the monetary benefits for the said period.

2. Primarily it is to be noticed that though the petitioner retired on 2004, the writ petition was filed in the year 2006. Further the rule relied on by the petitioner speaks of officers in the last grade service as on 07.04.1970. Admittedly the 5th respondent college under an agreement dated 01.09.2002

W.P.(C) No.24668 of 2006 - J

with the Government of the year 2004, was deemed to be a Government college affiliated to the respondent University.

3. Considerable reliance can be placed on **Raman v. State of Kerala [2005(2) KLT 239]**, wherein the very same rule came up for consideration. Therein the Panchayath employees declared as Government servants w. e. f. 03.02.1987, claimed the benefits of the Rule, which was declined by the Division Bench of this Court. In such circumstance, it cannot be said that the petitioner was a last grade servant as on 07.04.1970 since at that point of time to 5th respondent was in the private sector.

The writ petition cannot be sustained and would stand dismissed. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.