

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 18563 of 2008 (I)

PETITIONER(S):

1. DR.R.JAYAPRAKASH,
S/O.K.RAJAGOPALA PILLAI, AGED 41 YEARS, READER
DEPARTMENT OF PHYSICS, MAR THOMA COLLEGE, CHUNGATHARA
MALAPPURAM DIST.
2. PRASAD MALEX, LECTURER SELECTION
GRADE, DEPARTMENT OF CHEMISTRY, MAR THOMA COLLEGE
CHUNGATHARA, MALAPPURAM DISTRICT.
3. ELIZABETH THOMAS, READER, DEPARTMENT
OF MALAYALAM, MAR THOMA COLLEGE, CHUNGATHARA
MALAPPURAM DISTRICT.
4. K.E.GEORGIE, LECTURER SELECTION GRADE
DEPARTMENT OF CHEMISTRY, MAR THOMA COLLEGE
CHUNGATHARA, MALAPPURAM DISTRICT.
5. RANJI P.MATHEWS,
LECTURER SELECTION GRADE, DEPARTMENT OF BOTANY
MAR THOMAS COLLEGE, CHUNGATHARA, MALAPPURAM
DISTRICT.
6. SUSAN CHACKO,
LECTURER SELECTION GRADE, DEPARTMENT OF, PHYSICS
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
7. SOSAMMA SAMUEL,
LECTURER SELECTION GRADE, DEPARTMENT OF CHEMISTRY
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
8. ANITA.K.,
LECTURER SELECTION GRADE, DEPARTMENT OF HINDI
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.

9. P.MATHEWS DOLLY,
LECTURER SELECTION GRADE, DEPARTMENT OF ENGLISH
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
10. GIGY SUSAN GEORGE,
LECTURER SELECTION GRADE, DEPARTMENT OF PHYSICS
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
11. SUSAN JOSEPH,
LECTURER SELECTION GRADE, DEPARTMENT OF ENGLISH
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
12. THOMAS K.GEORGE,
LECTURER SELECTION GRADE, DEPARTMENT OF PHYSICS
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
13. THOMAS MATHEW,
LECTURER SELECTION GRADE, DEPARTMENT OF MATHEMATICS
MAR THOMA COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
14. DR.GEETHAKUMARI AMMA,
LECTURER SELECTION GRADE, DEPARTMENT OF HINDI
MAR THOMAS COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
15. DR.RAINA THOMAS, READER,
DEPARTMENT OF CHEMISTRY, MAR THOMA COLLEGE
CHUNGATHARA, MALAPURAM DISTRICT.
16. ABRAHAM P.MATHEW,
LECTURER SELECTION GRADE, DEPARTMENT OF ECONOMICS
MAR THOMAS COLLEGE, CHUNGATHARA, MALAPPURAM DISTRICT.
17. THOMAS MATHEW,
PRINCIPAL, MAR THOMA COLLEGE, CHUNGATHARA
MALAPPURAM DISTRICT.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK
SRI.M.B.VIMALRAJ

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY PRINCIPAL SECRETARY TO GOVERNMENT, (FINANCE)
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION
MALAPPURAM,[THE ADDRESS OF 2ND RESPONDENT IS CORRECTED AS
'THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
KOZHIKODE' AS PER ORDER DATED 01.07.2008 IN IA 8068/08.]
3. THE CHIEF COMMISSIONER OF INCOME TAX,
I.S.PRESS ROAD, ERNAKULAM, KOCHI-18.
4. THE SUB TREASURY OFFICER,
SUB TREASURY, NILAMBUR.
5. THE PRINCIPAL,
MAR THOMA COLLEGE, CHUNGATHARA, MALAPURAM DISTRICT.

R BY SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

R BY GOVERNMENT PLEADER SMT A LOWSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18563 of 2008 (I)

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF G.O(-P) NO.38/07(FIN) DT 31.1.2007

EXT.P2: TRUE COPY OF G.O(P) NO.120/07(FIN) DATED 20.03.2007

EXT.P3: TRUE COPY OF G.O(P) NO.547/07(FIN) DT 14/11/07

EXT.P4: TRUE COPY OF G.O(P) NO.91/08(FIN) DT 16.02.2008

EXT.P5: TRUE COPY OF JUDGMENT IN O.P NO. 3437/03 DT 30.1.2003 OF THIS HON'BLE COURT

EXT.P6: TRUE COPY OF ORDER DT 27/03/08 IN WPC NO.10452/08 OF THIS HON'BLE COURT

RESPONDENTS EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No. 18563 of 2008

Dated this the 03rd day of September, 2015

J U D G M E N T

The writ petition was with respect to the payment of tax deduction at source, under the Income Tax Act, 1961 being effected by the Government. The petitioners, employees of the State Government were granted pay revision with retrospective effect. The arrears of pay as per the revision effected was to be remitted to the Provident Fund Account. However, the Government by an order, directed that no tax deduction would be made and the entire arrears including the tax would be deposited to the Provident fund Account. The same definitely goes against the provisions of the Income tax Act. The issue is also covered by the judgment of this Court in Tomy v. Union of India [(2001) 2 KLT 537]. Based on the said decision, an interim order was already granted by this Court on 20.06.2008 directing the Government that sufficient amounts be made available to the petitioners for

payment of income tax.

In such circumstance, the writ petition need not be kept pending and the interim order passed is made absolute.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

///true copy//

P.A to Judge