

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 19689 of 2013 (I)

PETITIONER:

**HYMAVATHY K.P.
HEAD NURSE (RETIRED)
CALICUT UNIVERSITY HEALTH CENTRE, RESIDING AT ARUVI
MANIKULATHUPARAMBU, THENHIPALAM, MALAPPURAM.**

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:

- 1. THE UNIVERSITY OF CALICUT
REPRESENTED BY ITS REGISTRAR
THENHIPALAM, MALAPPURAM-673 645.**
- 2. THE FINANCE OFFICER,
UNIVERSITY OF CALICUT
THENHIPALAM, MALAPPURAM-673 645.**

R1 BY ADV. SRI.SANTHOSH MATHEW, SC, CALICUT UNIVERSITY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE ORDER ISSUED BY THE UNIVERSITY
DATED 04/02/2012.
- EXT.P2 : COPY OF THE ORDER ISSUED BY THE UNIVERSITY
DATED 07/09/2002.
- EXT.P3 : COPY OF THE ORDER ISSUED BY THE UNIVERSITY
DATED 27/02/2007.
- EXT.P4 : COPY OF THE ORDER DATED 26/03/2004.
- EXT.P5 : COPY OF THE ORDER DATED 16/11/2007.
- EXT.P6 : COPY OF THE ORDER DATED 08/03/2011 ISSUED BY THE
UNIVERSITY.
- EXT.P7 : COPY OF THE JUDGMENT IN WP(C).NO.37245/2010.
- EXT.P8 : COPY OF THE JUDGMENT IN WP(C) NO.3533 OF 2014.
- EXT.P9 : COPY OF THE JUDGMENT IN WP(C) NO.2766 OF 2013
DATED 08.09.2015.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.19689 of 2013

Dated this the 11th day of November, 2015.

JUDGMENT

The petitioner retired from the 1st respondent University as a Head Nurse, after completing 29 years of service on 31.03.2011. Before appointment to the University, the petitioner had been working in the Government Health Department, between 01.07.1982 and 02.07.1984. The petitioner had sought for reckoning the said period also as service for pensionary benefits, which was allowed by the University by Ext.P2. The pension contribution and the interest for belated remittance were deposited by the petitioner, upon which, the University issued Ext.P2 order, reckoning her earlier service of 2 years with the Government-Health Department, as service under the University for pensionary benefits.

2. The petitioner was also granted two Higher Grades as per

Exts.P3 and P4 respectively, reckoning the said service in the Government Department. An objection was raised by the Deputy Director, Local Fund Audit with respect to such reckoning, which was overruled by the Syndicate, as is seen at Ext.P7.

3. The petitioner, after retirement, is aggrieved by the fact that the pensionary benefits have not been sanctioned, again for reason only of the objections on audit, which have been earlier overruled by the Syndicate. Ext.P9 judgment would squarely apply in the aforesaid case. This Court noticed Calicut University First Statutes, 1997, specifically Rule 3 (viii) of Chapter 6, which empowered the Syndicate to cause proper accounts to be maintained relating to the funds of the University and to review the Government Auditor's report. The University's power to overrule an objection and audit is clearly provided in the Statute. Hence, the objection raised, even at the time of grant of Higher Grade, having been specifically overruled, there is no reason why the petitioner's pension should be withheld. The petitioner, hence, is entitled to receive pension and gratuity, reckoning her service from 01.07.1982 onwards. The audit objections raised, if

merely on the count of reckoning of earlier period of service spent in Government Department, has to be found to be not of any consequence, since the very same objection has been overruled by the Syndicate. The petitioner shall hence be sanctioned and disbursed the pension along with the arrears, reckoning her service from 01.07.1982 onwards, within a period of three months from the date of receipt of a certified copy of this judgment.

If the amounts are not disbursed within three months, then the petitioner shall be entitled to interest @6% for the DCRG amounts from the date on which the DCRG fell due. In disbursing the arrears, necessarily the pension already sanctioned and disbursed shall be deducted, when computing the arrears.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE.

//True Copy//

P.A. to Judge.

sp/11/11/15