

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. 17058 of 2015 (F)

PETITIONERS:

**P.R. SATHYAN AGED 58 YEARS
(RTD. FARM SUPERINTENDENT) PEECHOLY HOUSE
PATTIKKAD PO, THRISSUR DISTRICT, PIN-680 652.**

**BY ADVS.SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.THOMAS GEORGE**

RESPONDENTS:

- 1. KERALA AGRICULTURE UNIVERSITY
REPRESENTED BY THE REGISTRAR, VELLANIKKARA
THRISSUR DISTRICT, PIN-683 003.**
- 2. THE COMPTROLLER
KERALA AGRICULTURE UNIVERSITY, VELLANIKKARA
THRISSUR DISTRICT, PIN-683 003.**
- 3. JOINT DIRECTOR,
LOCAL FUND AUDIT, KERALA AGRICULTURE UNIVERSITY
VELLANIKKARA, THRISSUR DISTRICT, PIN-683 003.**
- 4. THE DIRECTOR
OFFICE OF THE DIRECTOR OF LOCAL FUND AUDIT
IVTH FLOOR, VIKAS BHAVAN, THIRUVANANTHAPURAM
PIN-695 033.**

**R1 TO R3 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KERALA
AGRICULTURAL UNIVERSITY
R4 BY GOVERNMENT PLEADER M.J. RAJASREE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- P1 : A TRUE COPY OF THE JUDGMENT DATED 21-8-2014 IN WP.2239/13**
- P2 : A TRUE COPY OF THE ORDER DATED 25-10-2014 ISSUED BY THE KERALA AGRICULTURE UNIVERSITY.**
- P3 : A TRUE COPY OF THE PAY SLIP DATED 15-12-2014 ISSUED BY THE COMPTROLLER OF THE UNIVERSITY.**
- P4 : A TRUE COPY OF THE LAST PAY CERTIFICATE DATED 4-1-2014 ISSUED TO THE PETITIONER.**
- P5 : A TRUE COPY OF THE REPRESENTATION DATED 30-10-2014 GIVEN TO THE COMPTROLLER OF THE UNIVERSITY.**
- P6 : A TRUE COPY OF THE LETTER 16-3-15 FROM THE JOINT DIRECTOR OF THE LOCAL FUND AUDIT.**
- P7 : A TRUE COPY OF THE PETITIONER'S REPRESENTATION DATED 7-5-2015 GIVEN TO THE RESPONDENT.**
- P8 : A COPY OF THE ORDER DATED 28-4-2015 ISSUED BY THE DEPTY COMPTROLLER OF THE UNIVERSITY.**
- P9 : A COPY OF THE ORDER DATED 28-4-15 ISSUED BY THE DEPUTY COMPTROLLER OF THE UNIVERSITY.**
- P10 : A TRUE COPY OF THE ORDER DATED 26-5-2015 ISSUED BY THE VICE CHANCELLOR OF THE KERALA AGRICULTURE UNIVERSITY.**
- P11 : A TRUE COPY OF THE JUDGMENT DATED 17-3-2015 IN WP.8117/15.**

RESPONDENTS' EXHIBITS

- R1(A): TRUE COPY OF THE JUDGMENT DATED 9.4.2015 IN W.P.(C) NO.10214/2015 OF THIS HON'BLE COURT**

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 17058 of 2015 (F)

Dated this the 1st day of September, 2015

J U D G M E N T

The petitioner is aggrieved with the non-disbursal of the retirement benefits in accordance with the IXth Pay Commission.

2. The controversy arose when the IXth Pay Commission report abolished the post in which the petitioner and some similarly placed persons were promoted, being the post of Farm Superintendent in the respondent University. The said abolition was in pursuance of a purported attempt to unify the pay scales of identical posts in the University with those of the Secretariat and other Government departments. The petitioner and other similarly placed persons were before this Court challenging the abolition of the post. This Court by Ext.P1 judgment allowed the writ petitions finding that the posts created by

the University by virtue of an Ordinance cannot be cancelled or abolished by a Pay Revision Order. This Court relied on the principle laid down in W.P.(C) No.9276/2013, which was disposed of by judgment dated 21.05.2014.

3. The petitioner was a party to Ext.P1 and the petitioner stood promoted before the introduction of IXth Pay Commission on 01.04.2011. The petitioner, while the writ petition was pending, superannuated on 30.11.2013. It is also submitted that the petitioner was sought to be reverted on the basis of the implementation of the IXth Pay Commission report and the petitioner had moved an Interim Application in the earlier Writ Petition, in which there was a stay of reversion. The petitioner, hence, continued in the promoted post of Farm Superintendent till his superannuation. Subsequent to his superannuation, the writ petition was allowed as per Ext.P1. However, the petitioner, though granted pension as per the pay fixation of

the IXth Pay Commission, has not been granted the retirement benefits. The petitioner contends that he is entitled to retirement benefits as per the IXth Pay Commission in the promotion post of Farm Superintendent, from which he retired.

4. The learned Government Pleader submits that there is an appeal filed against the judgment in W.P.(C) No.9276/2013 as also Ext.P1 judgment. The learned counsel for the petitioner contends that both these Writ Appeals have not been admitted, and the appeal from Ext.P1 is grossly delayed and the petitioner has now got a notice on the delay petition filed by the Government.

5. The learned Standing Counsel appearing for the University would rely on Ext.R1(a) to contend that this Court had permitted the University to disburse the pensionary benefits in accordance with the seniority of retirement, since the University was facing financial constraints.

6. As things stand now, the petitioner, though being paid pension as per the pay fixation of the IXth Pay Commission, is denied the other retirement benefits in toto, for reason of the financial constraints of the University. In any event, the statement filed by the University also disclose that the petitioner's turn now is Sl.No.7 in accordance with the seniority. However, even then the petitioner apprehends that the petitioner's retirement benefits, when disbursed, would be in accordance with the 2004 fixation and not in accordance with the IXth Pay Commission.

7. Ext.P1 rules the field as of now and the petitioner along with the other similarly placed Farm Superintendents has to be deemed to be continued as a Farm Superintendent, de hors the abolition of the post by the IXth Pay Commission. The fixation of pay should also be in accordance with the IXth Pay Commission. Hence, the

petitioner, when he superannuated on 30.11.2013, has to be deemed to have been superannuated from the post of Farm Superintendent, entitled to pensionary benefits as per the fixation of scale of pay in the post as per the IXth Pay Commission. The petitioner's retirement benefits when disbursed shall be in accordance with the pay fixed as per the IXth Pay Commission.

The Writ Petition stands allowed. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE