

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).NO. 18743 OF 2015 (P)

PETITIONER(S) :

SMT.C.N.RAJALAKSHMI, AGED 52,
W/O.THULASIDAS, SENIOR GRADE LECTURER, DEPARTMENT OF DANCE
KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O., CHERUTHURUTHY
THRISSUR DISTRICT-679 531.

BY ADVS.SRI.M.R.VENUGOPAL
SMT.DHANYA P.ASHOKAN

RESPONDENT(S) :

1. KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O., CHERUTHURUTHY
THRISSUR DISTRICT-679 531
REPRESENTED BY ITS REGISTRAR.

2. THE VICE CHANCELLOR
KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O., CHERUTHURUTHY
THRISSUR DISTRICT-679 531.

3. THE REGISTRAR
KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O. CHERUTHURUTHY
THRISSUR DISTRICT-679 531.

4. THE ENQUIRY OFFICER
KALAMANDALAM SARASWATHY
KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O., CHERUTHURUTHY
THRISSUR DISTRICT-679 531.

5. SMT.P.M.PUSHPALATHA
LECTURER, KERALA KALAMANDALAM DEEMED UNIVERSITY
VALLATHOL NAGAR P.O., CHERUTHURUTHY
THRISSUR DISTRICT-679 531.

R1-R3 BY ADV. SRI.S.SUBHASH CHAND,SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .NO. 18743 OF 2015 (P)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1. TRUE COPY OF THE MEMO NO.K.K.M.D.U/RGR/24/2014 DATED 8/8/2014.

EXT.P2. TRUE COPY OF THE ORDER DATED 8/8/2014 ISSUED BY THE 2ND
RESPONDENT

EXT.P3. TRUE COPY OF THE RELEVANT PAGES OF THE DIARY OF 1ST RESPONDENT

EXT.P4. TRUE COPY OF THE REPRESENTATION DATED 8/8/2014.

EXT.P5. TRUE COPY OF THE JUDGMENT DATED 2/9/2014 IN WPC NO.22718/2014.

EXT.P6. TRUE COPY OF THE COMPLAINT ALONG WITH THE COVERING LETTER DATED
26/9/2014.

EXT.P7. TRUE COPY OF THE REPLY DATED 7/10/2014 SUBMITTED BY THE
PETITIONER

EXT.P8. TRUE COPY OF THE ORDER NO.KKMDU/RGR/24/2014 DATED 14/11/2014.

EXT.P9. TRUE COPY OF THE MEMO OF CHARGES DATED 19/11/2014

EXT.P10. TRUE COPY OF THE STATEMENT OF DEFENCE DATED 28/11/2014.

EXT.P11. TRUE COPY OF THE SHOW CAUSE NOTICE NO.K.K.M.U./RJR/24/2014
DATED 30/1/2015.

EXT.P12. TRUE COPY OF THE ENQUIRY REPORT DATED 27/1/2015.

EXT.P13. TRUE COPY OF THE REPLY DATED 2/2/2015 SUBMITTED BY THE
PETITIONER

EXT.P14. TRUE COPY OF THE ORDER NO.U.O.NO.137/2015 DATED 9/2/2015.

EXT.P15. TRUE COPY OF THE ORDER NO.U.O.NO.471/2015 DATED 19/5/2015.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.18743 of 2015

.....
Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner is a Senior Grade Lecturer, who is stated to have been holding the post of Head of Department (Dance) in the 1st respondent University since 2013. Pursuant to disciplinary proceedings that were initiated against her by the respondent University, a punishment of barring of increment without cumulative effect for two years, was imposed on the petitioner and she was also removed from the post of Head of Department (HOD). Against the said order of punishment that was imposed on the petitioner by the Vice Chancellor of the University, the petitioner preferred an appeal before the Executive Board as contemplated under the Kerala Kalamandalam Deemed University for Art and Culture Bye-Law, 2009. The said appeal, however, was dismissed by Ext.P15 order. In the writ petition, the petitioner impugns Ext.P15 order, inter alia, on the ground that the entire disciplinary proceedings carried out by the respondents was vitiated on account of non-compliance with the proper procedure, and non-consideration of the reply filed by the petitioner to the memorandum of allegation and show cause notice issued by the respondents. It is also the contention of the petitioner in the writ petition that, consequent to Ext.P15 order, a Junior

teacher who does not have the required qualification for manning the post of HOD, has been appointed as HOD.

2. A statement has been filed on behalf of respondents 1 to 3 wherein it is stated that against Ext.P15 order of the respondents confirming the penalty on the petitioner, the petitioner has an alternate remedy by way of appeal before the Chancellor under Rule 37 (b) of the aforementioned bye-laws. The averments in the writ petition are also traversed in the said statement filed on behalf of the respondents.

3. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the view that, inasmuch as the petitioner has an effective alternative remedy by way of appeal against Ext.P15 order before the Chancellor of the respondent University, it would be necessary to relegate the petitioner to exhaust the said remedy first, before challenging any order of the respondent University before this Court in proceedings

under Article 226 of the Constitution of India. Accordingly, without prejudice to the right of the petitioner to approach this Court challenging any adverse order passed in the appeal, I dismiss the writ petition in its challenge against Ext.P15 order, and relegate the petitioner to the alternate remedy of approaching the Chancellor of the respondent University by way of an appeal against Ext.P15 order. If the petitioner prefers an appeal within a period of two weeks from the date of receipt of a copy of this judgment, then the respondent University shall take steps to ensure that the appeal is considered by the Chancellor of the University and appropriate orders passed thereon within a period of two months thereafter, after hearing the petitioner.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

