

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No.29120 of 2006 (N)

PETITIONER :

DR.SIDHARTHAN, S/O.K.GOVINDAN,
FORMER REGISTRAR, UNIVERSITY OF KERALA,
THIRUVANANTHAPURAM, RESIDING AT THINAVITHACHATHIL VEEDU,
KARAMKULAM, POOVAR P.O., ALSO HAVING RESIDENCE AT
STATE BANK BUILDING, MANJALUMOODU,
KANYAKUMARI-629 151.

BY ADVS.SRI.M.BALAGOVINDAN
SRI.SASITH PANICKER

RESPONDENTS :

1. UNIVERSITY OF KERALA, PALAYAM,
THIRUVANANTHAPURAM, REPRESENTED BY ITS REGISTRAR.
2. VICE CHANCELLOR, UNIVERSITY OF KERALA,
PALAYAM, THIRUVANANTHAPURAM.
3. SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
4. REGISTRAR, ANNA UNIVERSITY,
CHENNAI-600 025.

R1 & 2 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.
BY GOVERNMENT PLEADER SRI.P.V.ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.29120 of 2006 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE ORDER ISSUED BY THE FIRST RESPONDENT ON 30.7.97.
- EXT.P2 : COPY OF THE NOTIFICATION PUBLISHED IN NEWSPAPER BY UNIVERSITY ON 14.5.1997.
- EXT.P3 : COPY OF THE COMMUNICATION ADDRESSED TO THE VICE CHANCELLOR OF 4TH RESPONDENT UNIVERSITY DTD.23.2.99.
- EXT.P4 : COPY OF THE COMMUNICATION BY THE REGISTRAR OF THE FIRST RESPONDENT UNIVERSITY ON 25.4.2006.
- EXT.P5 : COPY OF THE ORDER IN WRIT PETITION (MD) No.11390/2006 DTD.12.11.2014.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.29120 of 2006

Dated this the 17th day of June, 2015

JUDGMENT

The petitioner, who joined the 1st respondent University on 30.7.1997 as Registrar and retired from service on 31.1.2003, has filed this Writ Petition seeking a writ of mandamus commanding the 1st respondent University to collect the total terminal benefits taking into consideration of any liability from the 4th respondent University namely Anna University and direct the quantified amount be disbursed to him without any delay.

2. Going by the averments in the Writ Petition the petitioner joined the 1st respondent University as Registrar pursuant to Ext.P2 notification. At the time when the petitioner submitted application pursuant to Ext.P2 notification, he was working as Assistant Professor in Management under Anna University at Tamil Nadu, the 4th respondent herein. The petitioner originally worked as Lecturer in Commerce in Alagappa College, Karaikudy, which was later renamed as Alagappa Government Arts College, for the period from 23.9.1970 to 6.7.1975. Later, he worked as Professor and Head of

the Department of Corporate Secretaryship at P.S.G. College of Arts and Science, Coimbatore, from 7.7.1975 till 22.11.1978. Still later, from 23.11.1978 till 19.2.1992 he worked as Post Graduate Professor and Head of the Department of Commerce at S.T.Hindu College Nagarcovil. Thereafter, he worked as Assistant Professor and Head of the Division of Management in the Department of Management Studies in the 4th respondent University from 20.2.1992 to 2.9.1997. Therefore, the petitioner has altogether 28 years of service in various Colleges in Tamil Nadu, under the 4th respondent/University.

3. On 23.2.1999, the Vice Chancellor of the 1st respondent University by Ext.P3 requested the 4th respondent University that the entire service benefits of the petitioner may be transferred to the 1st respondent University so that, the 1st respondent University would take over the entire liability of his pension and other terminal benefits. Ext.P3 was followed that Ext.P4 communication issued by the Registrar of the 1st respondent University addressed to the 4th respondent University in which it was requested that necessary steps may be taken to remit the proportionate pensionary liability based

on the previous service of the petitioner in the institutions under the 4th respondent University. It is thereafter, the petitioner has approached this Court in this Writ Petition alleging inaction on the part of the 4th respondent University and seeking various reliefs.

4. A counter affidavit has been filed on behalf of respondents 1 and 2 contending that, as per G.O.(P)No.193/04/Fin. dated 20.4.2004, the prior service of the petitioner in the 4th respondent University as well as the institutions affiliated to that University can be reckoned only if the pension liability based on the previous service is remitted to the Kerala University by the 4th respondent University. Therefore, the 4th respondent should remit the DCRG/Service Gratuity and the commuted value of the entire admissible pension then only the 1st respondent University will be in a position to consider the request made by the petitioner. In the counter affidavit the 1st respondent has also pointed out that the petitioner has also moved the Madhurai Bench of the Madras High Court for a direction to the 4th respondent to transfer his pension contribution to the 1st respondent University and the said case is pending consideration.

5. Along with I.A.No.8125 of 2015, the petitioner has produced a copy of judgment dated 12.11.2014 of the Madurai Bench of the Madras High Court in W.P.(MD)No.11390 of 2006. A reading of Ext.P5 judgment would show that the said Writ Petition was disposed of with direction to the petitioner to make a representation before the 4th respondent University with relevant particulars and documents in this regard within a period of two weeks from the date of receipt of a copy of the order and on receipt of such representation the 4th respondent University shall consider the same and reckon forthwith the petitioner's service extending to 26 years 10 months and 24 days in various capacities in that University and affiliated and aided colleges in the State of Tamil Nadu and duly communicated it to the 1st respondent within a period of 4 weeks thereafter.

6. I heard the arguments of the learned counsel for the petitioner, the learned Standing Counsel for the Kerala University and also the learned Government Pleader appearing for the 3rd respondent.

7. In view of Ext.P5 judgment of the Madurai Bench of Madras High Court, I deem it unnecessary to go into the merits of the rival contentions made by the parties. As I have already noticed, in Ext.P5 judgment, the Madhurai Bench of Madras High Court has already directed the petitioner to submit a representation with relevant particulars and documents before the 4th respondent University within a period of two weeks and the 4th respondent University is directed to consider such representation for reckoning his service extending to 26 years 10 months and 24 days in various capacities in that University and the affiliated and aided Colleges in the State of Tamil Nadu and to communicate the decision taken thereon to the 1st respondent University within a period of 4 weeks thereafter. In such circumstances, this Writ Petition is disposed of with the following directions:-

- (1) Once a decision is taken by the 4th respondent University pursuant to Ext.P5 judgment of the Madhurai Bench of the Madras High Court and intimated to the 1st respondent University, the 1st respondent University shall communicate a copy thereof to the petitioner within a period of two weeks from the date of receipt of such communication.

- (2) On receipt of a copy of the decision taken by the 4th respondent University (either from the 1st respondent University or from the 4th respondent University), the petitioner shall submit a detailed representation before the first respondent University, within a period of two weeks from the date of receipt of such decision.
- (3) If any such representation is received, the 1st respondent shall consider and pass appropriate orders thereon, as expeditiously as possible, and on the proportionate pensionary liability being transferred by the 4th respondent University, the 1st respondent University shall re-fix the terminal benefits payable to the petitioner and all consequential monetary benefits shall be disbursed to him without further delay.

All the contentions raised by the petitioner in this Writ Petition are left open.

ANIL K.NARENDRA, JUDGE

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