

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 19073 of 2015 (H)

PETITIONER(S):

**DR.SOSAMMA CHERIAN AGED 60 YEARS
RETIRED PROFESSOR & HEAD
AGRICULTURAL RESEARCHSTATION, THIRUVALLA
RESIDING AT AYKARAYIL HOUSE, KUNNAMTHANAM P.O.
THIRUVALLA 689 581.**

**BY ADVS.SRI.P.V.JAYACHANDRAN
SRI.S.SUDHEESHKAR
SRI.E.B.SHIVANANDAN
SRI.NIDHI BALACHANDRAN
DR.K.S.NIZAR**

RESPONDENT(S):

- 1. THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OFFINANCE (PENSION - B) SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**
- 2. KERALA AGRICULTURAL UNIVERSITY
K A U POST, VELLANIKKARA, THRISSUR
REPRESENTED BY ITS REGISTRAR - 680 654.**
- 3. THE COMPTROLLER
KERALA AGRICULTURAL UNIVERSITY, K A U POST
VELLANIKKARA, THRISSUR -680 654.**

**R BY GOVERNMENT PLEADER, SMT. LOWSY A.
R BY SRI.BABU JOSEPH KURUVATHAZHA,SC,
KERALA AGRICULTURAL UNIVERSITY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 19073 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF ORDER NO.PEN.A2/21778/2014 DATED 21.4.2015

EXT.P-2: TRUE COPY OF ORDER NO.PEN.A2/21778/2014 DATED 21.4.2015

**EXT.P-3: TRUE COPY OF THE GOVERNMENT CIRCULAR NO.77/2011/FIN DATED 1
2.11.2011**

EXT.P-4: TRUE COPY OF THE G.O(P) NO.106/2013/FIN DATED 27.2.2013

EXT.P-5: TRUE COPY OF THE CIRCULAR NO.53/2013/FIN DATED 11.6.2013

**EXT.P-6: TRUE COPY OF THE JUDGEMENT IN WPC NO.10214 OF 2015(B) DATED
9.4.2015**

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 19073 of 2015

Dated this the 5th day of August, 2015

JUDGMENT

The petitioner retired from service on 30.11.2014 and in the writ petition, she is aggrieved by the non disbursal of retirement benefits to her, despite the fact that more than six months have elapsed from the date of her retirement. The retirement benefits due to the petitioner have been quantified by the respondents themselves as per Exts.P1 and P2. There is no dispute with regard to the entitlement of the petitioner for the retirement benefits. Although on an earlier occasion, this Court had, by Ext.P6 judgment, indicated that the respondent University should maintain a seniority list of persons who have retired, and take steps to disburse the pensionary benefits due to the retirees in the order of their retirement from the University, I find that although, a seniority list was drawn up, the same has not been updated on a periodical basis and the definite stand of the respondent University is that they will be in a position to disburse the amounts to the persons in the seniority list only as and when grants are made available to them by the State Government. In my view, the said stand of the respondent University is wholly untenable as it is now well settled by a catena of decisions that the retirement benefits due to an employee are not in the nature of a bounty, over which

the employer enjoys a discretion in the matter of payment. Accordingly, I dispose the writ petition with a direction to the respondent University to effect payment of the retirement benefits due to the petitioner, as evidenced by Exts.P1 and P2, within a period of four months from the date of receipt of a copy of this judgment. I further make it clear that, if the retirement benefits that are admitted and payable to the petitioner, are not paid to the petitioner within the aforesaid period of four months, the said amount shall carry interest at the rate of 6% per annum from the date immediately following the expiry of the period of four months, till the date of actual payment to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE