

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 22147 of 2013 (P)

PETITIONER(S) :

**DR.A.M.VARKEY, AGED 61 YEARS,
S/O.MATHAI (LATE), RETIRED PROFESSOR,
SCHOOL OF LEGAL STUDIES,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
ERNAKULAM, PERMANENTLY RESIDING AT ARATTIL HOUSE,
KIZHAKKAMBALAM P.O., ASANPADI, PAZHANGANADU,
ERNAKULAM DISTRICT, PIN-683 562.**

**BY ADVS.SRI.P.T.DINESH
SRI.K.A.ABDUL NISTAR**

RESPONDENT(S) :

- 1. COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
REPRESENTED BY ITS REGISTRAR,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY P.O., ERNAKULAM-682 022.**
- 2. THE REGISTRAR,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY P.O., ERNAKULAM-682 022.**
- 3. THE VICE CHANCELLOR,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY P.O., ERNAKULAM-682 022.**
- 4. BHARAT SANCHAR NIGAM LIMITED (BSNL),
REPRESENTED BY THE PRINCIPAL GENERAL MANAGER,
BSNL BHAVAN, KALATHIPARAMBIL ROAD, KOCHI-16.**

**R1 TO R3 BY ADV. SRI.M.R.HARIRAJ, S.C
R4 BY ADV.SRI.MATHEWS K.PHILIP, S.C**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE ORDER NO.Q 1410/70 DATED 10.07.1984 BY THE DIVISIONAL ENGINEER (ADMN) TO THE ASSISTANT ENGINEER, OFFICE OF THE DISTRICT MANAGER, TELEPHONES, ERNAKULAM.**
- P2: TRUE COPY OF THE ORDER NO.E-3/84-85/25 DATED 10.07.1984 BY THE ASSISTANT ENGINEER TENDEM TD & SSX, TELEPHONE EXCHANGE, ERNAKULAM.**
- P3: TRUE COPY OF THE CERTIFICATE NO.Q 1410/TY/2 DATED 24.09.1984 BY THE DIVISIONAL ENGINEER (ADMN), OFFICE OF THE DISTRICT MANAGER, TELEPHONES, ERNAKULAM.**
- P4: TRUE COPY OF G.O.(P)369/87/FIN. DATED 31.03.1987 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(A): TRUE COPY OF THE G.O.(P)533/87/FIN. DATED 19.06.1987 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(B): TRUE COPY OF THE G.O.(P)298/89/FIN. DATED 17.06.1989 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(C): TRUE COPY OF THE G.O.(P)361/89/FIN. DATED 10.08.1989 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(D): TRUE COPY OF THE G.O.(P)383/89/FIN. DATED 29.08.1989 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(E): TRUE COPY OF THE G.O.(P)74/99/FIN. DATED 04.12.1999 BY THE GOVERNMENT OF KERALA, FINANCE (PENSION-B) DEPARTMENT.**
- P4(F): TRUE COPY OF THE G.O.(P)6512/03/FIN. DATED 06.12.2003 BY THE FINANCE (PENSION-B) DEPARTMENT, GOVERNMENT OF KERALA.**
- P5: TRUE COPY OF THE ORDER NO.AD.A1/155/99 DATED 03/04/2004 BY THE DEPUTY REGISTRAR (ADMN.II).**
- P6: TRUE COPY OF THE APPLICATION FORM FOR THE POST OF LECTURER SUBMITTED BY THE PETITIONER TO THE RESPONDENT UNIVERSITY.**
- P7: TRUE COPY OF THE LETTER DATED 18.10.1987 SUBMITTED BY THE PETITIONER TO THE FINANCE OFFICER/REGISTRAR CUSAT.**
- P8: TRUE COPY OF THE LETTER DATED 02.06.2009 TO THE ASSISTANT GENERAL MANAGER (ADMN), BSNL.**
- P9: TRUE COPY OF THE ORDER NO.AD.D1/02324/ADPE/1999 DATED 26.12.2008 ISSUED BY THE DEPUTY REGISTRAR (ADMN.II), CUSAT TO DR.JOSEPH JAMES.**

- P10: TRUE COPY OF THE REPRESENTATION DATED 15.03.2011 SUBMITTED BY THE PETITIONER TO THE REGISTRAR, CUSAT.
- P11: TRUE COPY OF THE LETTER NO.AD.D1/612/84 DATED 01.07.2011 BY THE DEPUTY REGISTRAR (ADMN-II), FOR THE REGISTRAR, CUSAT TO THE GENERAL MANAGER, BSNL.
- P12: TRUE COPY OF THE LETTER NO.ST/EK-226/14/VI DATED 03.08.2011 BY THE ASSISTANT GENERAL MANAGER (ADMN) OF BSNL TO THE DEPUTY REGISTRAR (ADMN-II) CUSAT.
- P13: TRUE COPY OF THE LETTER NO.AD.D1/612/84 DATED 13.01.2012 BY THE DEPUTY REGISTRAR (ADMN-II), CUSAT TO THE PETITIONER.
- P14: TRUE COPY OF THE COVERING LETTER AND THE DECLARATION DATED 20.01.2012 SUBMITTED BY THE PETITIONER TO THE REGISTRAR CUSAT.
- P15: TRUE COPY OF THE LETTER NO.AD.D2/612/84 DATED 03.07.2012 THE DEPUTY REGISTRAR (ADMN-II) CUSAT FOR THE REGISTRAR.
- P16: TRUE COPY OF THE FILE PERTAINS TO THE PETITIONER REGARDING THE RECKONING OF PRIOR SERVICE FOR PENSIONARY BENEFITS RECEIVED FROM CUSAT.
- P17: TRUE COPY OF THE RELEVANT PART OF THE GENERAL FINANCIAL RULES, 1963.
- P18: TRUE COPY OF THE RELEVANT PART OF THE GENERAL FINANCIAL RULES, 2005.

RESPONDENT(S)' EXHIBITS

- R1(A): A TRUE COPY OF THE LETTER NO.AD.D2/612/84 DATED 03.07.2012 ISSUED FOR THE 2ND RESPONDENT.
- R1(B): A TRUE COPY OF SERVICE CERTIFICATE NO.Q 1410/2 DATED 24.09.1984 ISSUED FROM THE OFFICE OF DISTRICT MANAGER, TELEPHONE'S, ERNAKULAM.
- R1(C): A TRUE COPY OF FORM OF SERVICE CERTIFICATE INSISTING BY THE UNIVERSITY.
- R4(A): COPY OF EXTRACT OF APPENDIX 13 UNDER RULE 284 OF GENERAL FINANCIAL RULES.

//TRUE COPY//

P.A.TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.22147 of 2013

Dated this the 17th day of March, 2015

JUDGMENT

The petitioner is a retired Professor from the service of the School of Legal studies under the Cochin University of Science and Technology (CUSAT). The petitioner retired on 30.4.2012. He approached this Court feeling aggrieved by non-reckoning of the prior regular pensionable service rendered by him in the Indian Posts and Telegraphs Department.

2. The petitioner prior to joining CUSAT and rendered service in the Indian Posts and Telegraphs Department from 15.4.1973 to 9.7.1984.

3. The above service is reckonable for the purpose of pensionary benefits when retired from the above University. The University made a request to the District Manager to inform to furnish the service certificate in the prescribed

format so as to count the pensionary benefits due to the petitioner. Since service records are not traceable, the petitioner was directed to file a written statement as mandated under Rule 115.b(iii) of Part-III of the Kerala Service Rules (KSR). Based on the written statement, sanctioning authority requested to certify the petitioner had pensionable service in the Department. It appears that no reply has been given by the Department. It is on account of want of records, the University was unable to reckon the service.

4. This Court by interim order dated 19.1.2015 passed the following order:

“In the light of the nature of dispute involved in this Writ Petition, I am of the view, fourth respondent/BSNL shall verify the genuineness of Ext.P3 as the case of the BSNL is that no service records are available in the office in respect of the petitioner. The fourth respondent shall verify the genuineness of Ext.P3 and report before this Court within a period of ten days.”

4. Thereafter, on 4.3.2015 another interim order was passed as follows:

“Learned Standing Counsel submits that no service records are available in the office of the BSNL in respect of the petitioner and it has to be found out whether Ext.P3 is genuine or not.

Post on 17.3.2015.”

5. The 4th respondent, thereafter, filed an affidavit stating that Ext.P3 produced by the petitioner seems to be genuine.

In that view of the matter, I am of the view, acting upon Ext.P3, necessary action shall be taken by the University to pay the pensionary benefits due to the petitioner. Needful shall be done within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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