

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 20714 of 2014 (L)

PETITIONER(S):

MATHEW J.MATTAM,
ASSOCIATE PROFESSOR, DEPT. OF ECONOMICS,
ST.BERCHMANS COLLEGE, CHANGANASSERY
RESIDING AT MATTATHIL, KALLURKULAM P.O., KOTTAYAM.

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.PRATHAP PILLAI
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.SEBIN THOMAS
SRI.VIVEK V. KANNANKERI
SMT.J.KASTHURI

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, PMG JUNCTION
THIRUVANANTHAPURAM - 695 033.

3. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
M L ROAD, KOTTAYAM - 686 562.

4. MAHATHMA GANDHI UNIVERSITY,
PRIYADARSHINI HILLS, ATHIRAMPUZHA, KOTTAYAM - 686 562
REP. BY ITS REGISTRAR.

5. ST. BERCHMANS COLLEGE,
CHANGANASSERY, KOTTAYAM - 686 101
REP. BY ITS MANAGER.

R4 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY
R2 BY ADV. GOVERNMENT PLEADER SMT.SUNIHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 20714 of 2014 (L)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 - TRUE COPY OF APPOINTMENT ORDER DT. 28.6.94.
P2 - TRUE COPY OF THE ORDER OF APPROVAL NO. 160/AC B111-1/96 DT. 14.3.96
P3 - TRUE COPY OF THE APPOINTMENT ORDER NO. G8-1225/94 DT. 16.6.98.
P4 - TRUE COPY OF ORDER OF APPROVAL NO. 160/AC BIII-1/1993 DT. 31.3.2000.
P5 TRUE COPY OF THE ORDER NO. AC BV - 1- 798-05 DT. 19.12.05.
P6 - TRUE COPY OF THE PROMOTION ORDER NO. G8-1121/03 DT.26.11.03.
P7 -TRUE COPY OF THE ORDER NO. AC BV-(2)/692/2004 DRT. 26.11.04.
P8 - TRUE COPY OF THE CLARIFICATION MEMORANDUM DT. 28.4.05 ISSUED BY THE 2ND RESPONDENT.
P9- TRUE COPY OF THE JUDGMENT IN WPC - 32450/07 DT. 16.12.08.
P10 - TRUE COPY OF THE COMMUNICATION DT. 12.1.09 ISSUED BY 3RD RESPONDENT.
P11 - TRUE COPY OF THE LETTER DT. 02.3.09.
P12- TRUE COPY OF THE PROMOTION ORDER DT. 14.9.09 ISSUED BY THE 4TH RESPONDENT.
P13 - TRUE COPY OF THE PROMOTION APPROVAL ORDER NO. 3014/AC BV/3/2010 DT. 18.6.10 ISSUED BY THE 3RD RESPONDENT.
P14 - TRUE COPY OFTHE LETTER DT. 18.11.10.
P15 - TRUE COPY OF THE ORDER NO. C3/4751/10 DT. 25.11.10.
P16- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DT. 20 JUNE 2014.
P17 - TRUE COPY OF THE REMINDER DT. 02.7.14 TO THE 2ND RESPONDENT.
P18 - TRUE COPY OF THE JUDGMENT IN WA 1372/13 ARISING FROM WOC NO. 27280/2012 OF THIS HONOURABLE COURT.

RESPONDENT(S) ' EXHIBITS

EXT.R2(A): RUE EXTRACT OF THE RELEVANT PORTION (C1 7.7) OF THE G.O. (P) 171/1999/H.EDN. DATED 21/12/1999.

/TRUE COPY/

P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 20714 OF 2014

Dated this the 4th day of March, 2015

JUDGMENT

The petitioner has approached this Court feeling aggrieved by Ext.P15 proceedings of the 3rd respondent- Deputy Director of Collegiate Education wherein, without reckoning the petitioner's broken spell of service, the Deputy Director approved the petitioner's promotion as Lecturer(Senior Scale). The petitioner, before joining in the 5th respondent College, had served the same institution in leave vacancy with effect from 28/9/1994 to 31/3/1995 (six months and two days). This appointment was approved by the University.

2. The issue to be decided in this writ petition is whether the broken period of service prior to 1996 can be reckoned for promotion. This issue is no longer res integra. This Court in W.P.(C) Nos.24745/2007 and, 34367/2007 held that broken period of service prior to 1996 as well can be reckoned for the purpose of promotion. The Division Bench of this Court W.A. No.1372/2013 also affirmed the view that the broken period prior to 1996 can be reckoned for the purpose of promotion.

3. In the light of the above judgments, Ext.P15 is liable to be quashed. Accordingly, Ext.P15 is quashed and set aside. Consequently, there shall be a direction to the 3rd respondent- Deputy Director to approve the promotion of the petitioner to the post of Lecturer(Senior Scale) by reckoning his service from 28/9/1994 to 31/3/1995 and to regularise the promotion, already given, by reckoning the broken period of service. The 3rd respondent shall comply with the above direction within a period of six weeks from the date of receipt of a copy of this judgment. Arrears based on such approval shall be disbursed to the petitioner within a further period of three months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE,

Judge.

dpk

/true copy/ PS to Judge.

