

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 25081 of 2008 (J)

PETITIONER:

**T.P.VARGHESE, GENERAL FOREMAN,
CALICUT UNIVERSITY PRESS, CALICUT, UNIVERSITY P.O.
MALAPPURAM DISTRICT, PIN 673 635.**

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

- 1. UNIVERSITY OF CALICUT, REPRESENTED
BY ITS REGISTRAR, CALICUT UNIVERSITY P.O.
MALAPPURAM DISTRICT.**
- 2. THE VICE CHANCELLOR, UNIVERSITY
OF CALICUT, CALICUT UNIVERSITY P.O.
MALAPPURAM DISTRICT.**
- 3. THE REGISTRAR, UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY P.O., MALAPPURAM DISTRICT.**

R1 -R 3 BY ADV. SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE RELEVANT EXTRACT OF CHAPTER XI - GENERAL SECTION IN THE GOVERNMENT PRESS MANUAL
- P2 : TRUE COPY OF THE RELEVANT EXTRACT OF CHAPTER XVI - MACHINE SECTION IN THE GOVERNMENT PRESS MANUAL
- P3 : TRUE COPY OF THE ENQUIRY REPORT OF THE SUB COMMITTEE OF THE SYNDICATE OF THE CALICUT UNIVERSITY DURING THE FINANCIAL YEAR 1999-2000
- P4 : TRUE COPY OF THE MINUTES OF THE SYNDICATE OF THE CALICUT UNIVERSITY DATED 3.9.2005
- P5 : TRUE COPY OF THE ORDER DATED 18.7.2008 OF THE 3RD RESPONDENT
- P6 : TRUE COPY OF THE REPRESENTATION DATED 6.11.2007 SUBMITTED BY ASST. SUPDT. IN CHARGE OF SUPDT., CALICUT UNIVERSITY PRESS TO THE 3RD RESPONDENT
- P7 : TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE THE FINANCE OFFICER, UNIVERSITY OF CALICUT
- P8 : TRUE COPY OF THE MEMO DATED 12.1.2009 ISSUED BY THE 3RD RESPONDENT

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 25081 of 2008 (J)

Dated this the 1st day of September, 2015

J U D G M E N T

The petitioner is aggrieved with the liability cast on him as per Ext.P5 along with two Assistant Superintendents in-charge of the Calicut University Press.

2. The liability purportedly arises on the basis of an enquiry conducted into the alleged loss caused to the Calicut University. The entire controversy arose due to an audit objection; which report pointed out that; for the year 1999-2000 a huge loss amounting to Rs.26,72,308/- had accrued due to the shortage in printing and supply of text books by the press of the University. An enquiry was ordered through a Committee constituted by the Syndicate of the University.

3. The Committee submitted a report at Ext.P3. Obviously, no notice is said to have been issued to the petitioner when such enquiry was conducted. The Assistant

Superintendents, two of them, who successively held charge of the Superintendent of the Press were heard. The findings of the Committee indicate that the loss was quantified at Rs.3,65,480/-. The same was directed to be made good from the two Press Superintendents in-charge and the Foreman and Binder in-charge, finding the loss having been the result of the callousness of the employees. It is to be noticed that even the report at Ext.P3 did not indicate as to the specific persons who were to be mulcted with such liability, i.e., the persons who were holding the post of the Foreman and the Binder.

4. The Press Superintendents, as is indicated earlier, was before the Enquiry Committee and had also filed their explanations before the Committee. Subsequently, the decision of the Syndicate was communicated by Ext.P5, wherein the two Press Superintendents as also the petitioner herein, who was the General Foreman, was mulcted with such liability. Consequent to Ext.P5, Ext.P8

was also issued demanding 1/3rd of the amount so found to be loss incurred by the University as per Ext.P3 report.

5. The learned counsel for the petitioner would contend that the duties enjoined upon by a General Foreman is as indicated in Exts.P1 and P2, which is the press manual of the Government adopted by the Calicut University. The petitioner who was in general superintendence cannot be mulcted with any liability, is the argument. The learned Standing Counsel for the Calicut University also would rely on Exts.P1 and P2 to indicate that the supervisory charge being on the petitioner, definitely, the liability could also be mulcted on the petitioner. However, this Court is of the opinion that the said contention is irrelevant insofar as the conduct of enquiry and no notice having been issued to the petitioner.

6. A reading of Ext.P3 would indicate that the loss caused was assessed on the basis of the deficient supply of certain books and the excess number supplied of certain

other books. It has to be understood that the Calicut University prints the books needed for the curriculum in the various courses and supplies the same through the Co-operative Societies to its students. The number of students admitted to a course being specific, the requirement of each such book included in the curriculum is definite and orders are placed in accordance with such requirements. However, certain books were supplied in excess of the requirement and certain others by a deficient number. The Committee appointed by the Syndicate has found that a loss of Rs.3,65,480/- has been caused to the University by reason of the omissions of the employees of the press. As was noticed earlier, the two Press Superintendents in-charge were issued with notice and were heard by the Committee. The petitioner, going by Ext.P3, was never heard by the Committee.

7. The manner in which the liability was mulcted on the petitioner is indicated in the counter affidavit of the

respondent. After the enquiry report was submitted by the Committee to the Syndicate, the Syndicate is said to have met on 3.9.2005 and as per letter dated 6.11.2007, the Assistant Superintendent in-charge of the press was asked to furnish a list of persons who have worked in different categories during the reported period of irregularity. A list of employees including the two Assistant Superintendents as also the Foreman, including the petitioner, was forwarded to the Syndicate. The list was considered by the Syndicate and the issue was resolved to be referred to the Standing Committee on staff for a detailed study. It is then stated that the meeting of the Syndicate held on 13.5.2008 considered the question of fixing the responsibility of the loss sustained to the University and resolved to make good the loss from Sri.K. Harilal, former Assistant Superintendent, Sri. A. Rajagopal, Assistant Superintendent and the petitioner who was the General Foreman. While the two Assistant Superintendents were heard at the enquiry

itself, there is nothing to indicate that the petitioner was heard either by the Committee or by the Syndicate before it was resolved to make good 1/3rd of the loss from the petitioner. The decision was followed up with an order issued to all parties, as is indicated at Ext.P5.

8. The learned Standing Counsel for the respondent University would alertly point to the statement made in the counter affidavit that due consideration was given to the representation submitted by Sri.T.P. Varghese, General Foreman. However, it is to be noticed that no date is indicated nor is it specified as to whether the same was considered before it was decided to mulct the liability on the petitioner herein. In any event it is to be emphasized that the Enquiry Committee has not specifically made any allegation against the petitioner and has merely stated that the Foreman and the Binder who were in charge is also responsible for the loss caused; but however, has not named any of the said persons nor issued notice to the persons who

were found to be so responsible for the loss caused; before the liability was mulcted.

9. In such circumstance, the enquiry carried on as also the decision taken by the Syndicate was behind the back of the petitioner. The petitioner having not been heard at any stage during the enquiry, nor having been issued with any notice with respect to the imposition of the liability for the loss caused, cannot be proceeded against for the alleged loss caused.

The writ petition is allowed, setting aside Exts.P5 and P8 insofar as the petitioner is concerned. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE