

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 25037 of 2013 (D)

PETITIONER(S):

1. K.P. KESAVAN NAMBEESHAN, AGED 36 YEARS,
S/O.KESAVA NAMBEESHAN, KIZHAKKE PUSHPAGATHU,
TRIKKALANGODU P.O., MANJERI, MALAPPURAM,
PIN-676123, WORKING AS KAZHAKAM, MELEDOM TEMPLE.
2. V.KIRATHADASAN, AGED 52 YEARS,
GOPIKA, S/O.V.KRISHNAN, TRIKKALANGODU.P.O.,
MANJERI, MALAPPURAM, PIN-676123,
WORKING AS CLERK AT MELEDOM TEMPLE.
3. N.RAMESH EMBRANTHIRI,
S/O.SUBRAMANIAN EMBRANTHIRI,
THOTTAKKAD MADOM P.O., PULPPATTA,
WORKING AS MELSHANTHI AT MELEDOM TEMPLE.
4. UMADEVI BRAHMINIAMMA,
W/O.KESAVAN NAMBEESAN, KIZHAKKE PUSHPAGATHU,
TRIKKALANGODU P.O., MANJERI, MALAPPURAM, PIN-676123
WORKING AS AKATTHADI KAZHAKAM AT MELEDOM TEMPLE.
5. V.VIJAYALAKSHMIAMMA,
D/O.C.MADHAVAN NAIR, MARATHODI VEEDU,
TRIKKALANGODU P.O., MANJERI, MALAPPURAM,
WORKING AS PURATHADI AT MELEDOM TEMPLE.
6. K.P.DEVAKI BRAHMANIAMMA,
D/O.KESAVA NAMBEESHAN, KIZHAKKE PUSHPAGATHU,
TRIKKALANGODU P.O., MANJERI, MALAPPURAM, PIN-676123,
WORKING AS KAZHAKAM AT VALLIYANKAVU TEMPLE.
7. SHANKARAN EMBRANTHIRI,
S/O.P.KRISHANAN EMBRANTHIRI, KADATHAMANA HOUSE,
THRIKKALANGODE P.O., MALAPPURAM DISTRICT,
WORKING AS MELSHANTHI AT VALLIYANKAVU TEMPLE.

BY ADVS.SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

WP(C).No. 25037 of 2013 (D)

RESPONDENT(S):

1. STATE OF KERALA, REP. BY ITS SECRETARY,
REVENUE (DEVASWOM), SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695001.
2. MALABAR DEVASWOM BOARD,
REPRESENTED BY ITS PRESIDENT,
ERANHIPALAM P.O., KOZHIKODE-673006.
3. COMMISSIONER,
MALABAR DEVASWOM BOARD,
ERANHIPALAM P.O., KOZHIKODE-673006.
4. ASSISTANT COMMISSIONER,
MALABAR DEVASWOM BOARD,
ERANHIPALAM P.O., KOZHIKODE-673006.
5. THE TRUSTEE, SREE TRIKKALANGODE DEVASWOM,
TRIKKALANGODE P.O., MALAPPURAM DISTRICT, PIN-676127,
REPRESENTED BY ITS CHAIRMAN.
6. EXECUTIVE OFFICER, SREE TRIKKALANGODE DEVASWOM,
TRIKKALANGODE P.O. MALAPPURAM DISTRICT, PIN-676127.

R1 BY GOVERNMENT PLEADER SRI.P.K.ABDUL REHIM
R2-R4 BY SRI.V.KRISHNA MENON, SC
BY SRI.KRISHNAKUMAR.S, SC
R5 BY ADVS. SRI.M.P.SREEKRISHNAN
SMT.M.H.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE PAY SCHEDULE OF THE PETITIONERS 1 TO 5 APPROVED BY THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD THE 4TH RESPONDENT.
- P2: TRUE COPY OF THE PAY SCHEDULE APPROVED BY THE 4TH RESPONDENT IN REGARD TO THE SERVICE OF THE PETITIONERS 6 AND 7.
- P3: TRUE COPY OF THE GOVERNMENT ORDER AS G.O(MS)116/09/RD DATED 28/2/2009.
- P4: TRUE COPY OF THE CIRCULAR DATED 18.3.2009 ISSUED BY THE 3RD RESPONDENT.
- P5: TRUE COPY OF THE RECOMMENDATION LETTER DATED 26.9.2012.
- P6: COPY OF THE STATEMENT.
- P7: TRUE COPY OF THE REPRESENTATION DATED 29.8.2013 FILED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT.
- P7(A): TRUE COPY OF THE POSTAL RECEIPTS SENDING EXT.P7 TO THE OTHER RESPONDENTS.
- P8 : A TRUE COPY OF THE INFORMATION RECEIVED FROM THE OFFICE OF THE 1ST RESPONDENT DATED 23.5.2014.
- P9 : A TRUE COPY OF THE INFORMATION RECEIVED FROM THE OFFICE OF THE 1ST RESPONDENT DATED 31.10.2014.
- P9(A): TRUE ENGLISH TRANSLATION OF EXT. P9.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPYT/

P.S. TO JUDGE

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A.M. SHAFFIQUE, J.
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W.P.(C). No. 25037 of 2013
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Dated this the 16th day of January, 2015

JUDGMENT

Petitioners are persons who are employees under Sree Meledath Siva temple. Petitioners 1 to 5 are employed as 'C' grade temple employees in one of the sub-shrines of Sree Trikkalangode Devaswom and petitioners 6 and 7 are employees under the Valliyankavutemple, which is a 'D' grade temple and one of the sub-shrines under Sree Trikalangode Devaswom.

2. Petitioners have narrated the dates on which they entered service in the respective temples. This writ petition has been filed seeking for a direction to respondents 1 to 4 to disburse the arrears of salary as evidenced from Ext.P6 and to disburse the full salary of the petitioners on the date fixed for disbursement of salary for each month.

3. The facts involved in the writ petition would

disclose that by way of Ext.P3 dated 28.02.2009, the Government has taken a decision to approve the pay scale of various categories of employees. It is inter alia contended that the proposal of the Board has been accepted by the Government in that regard. A circular had been issued by the 3rd respondent on 18.03.2009 by way of Ext.P4 thereby indicating that the scale of pay has been fixed with effect from 01.03.2009.

4. It is stated that on the basis of Ext.P3, the 6th respondent revised the scale of pay of the petitioners as evidenced by Exts.P1 & P2 with effect from 01.03.2009. Petitioners had submitted a representation before the 2nd respondent, who after conducting a study in the matter took a decision on 20.9.2012 recommending that the sub-shrines as independent temples, in order to get the support of management fund. The 3rd respondent had forwarded the recommendation dated 26.09.2012 by way of Ext.P5 to the 1st respondent. According to the

petitioner, Ext.P6 evidences the balance amount due to the petitioners on the basis of the fixation of pay scale as above mentioned. But so far no action has been taken by the respondents to effect payments.

5. Though sufficient opportunity had been granted to the respondents to file counter affidavit, no steps had been taken to file counter affidavit.

6. Having regard to the factual statement as narrated in the writ petition and in the absence of any counter affidavit in this regard, it is clear that the averments in the writ petition is treated to be admitted. Learned counsel appearing for respondents 5 and 6 supports the stand taken by the petitioners.

7. Having regard to the aforesaid submissions and the factual statement as narrated it is clear that the petitioners are entitled for fixation of pay scale and payment of salary in terms with Exts.P3 and P4 which is liable to be paid.

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In the said circumstances, the petitioners are entitled to the reliefs claimed and accordingly there will be a direction to respondents 1 to 4 to disburse to the petitioners, the arrears of the salary as computed by them within a period of two months from the date of receipt of a copy of this judgment and further to disburse the full salary to the petitioners.

Sd/-
A.M. SHAFFIQUE
JUDGE

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