

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No.26857 of 2012 (F)

PETITIONER:

**P.P.SALIM,PALACHUVATTIL,THALAKODE P.O,
(VIA) NELLIMATTOM,ERNAKULAM DISTRICT,PIN-686693.**

BY ADV. SRI.A.G.BASIL

RESPONDENTS:

- 1. SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY,PIN-683574,REPRESENTED BY ITS REGISTRAR.**
- 2. THE VICE CHANCELLOR,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY,PIN-683574.**
- 3. THE FINANCE OFFICER,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY,PIN-683574.**
- 4. HIGHER EDUCATION DEPARTMENT,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
GOVERNMENT OF KERALA,THIRUVANANTHAPURAM-695001.**

**R1 - R3 BY SRI.ARUN B.VARGHESE,SC, SREE SANKARACHARYA UTY.
R4 BY GOVT. PLEADER SMT.A.LOUSY.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE APPOINTMENT ORDER DATED 2.11.2004 ISSUED BY THE RESPONDENT UNIVERSITY TO THE PETITIONER AS 'DRIVER'.

EXT.P2:TRUE COPY OF THE ORDER DATED 7.12.2005 ISSUED BY THE RESPONDENT UNIVERSITY TO THE PETITIONER DECLARING HIS PROBATION AS SUCCESSFUL.

EXT.P3:TRUE COPY OF THE RETIREMENT ORDER DATED 31.3.2011 ISSUED BY THE UNIVERSITY TO THE PETITIONER.

EXT.P4:TRUE COPY OF THE EXPERIENCE CERTIFICATE DATED 18.8.2004 ISSUED BY THE RESPONDENT UNIVERSITY TO THE PETITIONER CONFIRMING THAT THE PETITIONER WAS IN THE SERVICE OF THE RESPONDENT UNIVERSITY SINCE 21.11.1994.

EXT.P5:TRUE COPY OF THE SALARY PAY SLIP OF THE PETITIONER FOR THE MONTH OF MARCH 2011 ISSUED BY THE RESPONDENT UNIVERSITY.

EXT.P6:TRUE COPY OF THE GOVERNMENT ORDER ISSUED BY THE 4TH RESPONDENT ON 17.5.1999.

EXT.P7:TRUE COPY OF THE ORDER OF THE RESPONDENT UNIVERSITY DATED 31.5.2000 IN RESPECT OF COUNTING OF THE PREVIOUS SERVICE FOR PENSIONARY BENEFITS IN RESPECT OF THE 13 SECTION OFFICERS.

EXT.P8:TRUE COPY OF THE JUDGMENT DATED 9.1.2008 OF THE HONOURABLE COURT HONOURABLE SUPREME COURT IN DUA S.K.V.STATE OF HARYANA AND OTHERS.

EXT.P9:TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 29.7.2011 IN UNION OF INDIA & ORS V.P.ABOOBAKER & ANR.

EXT.P10:TRUE COPY OF THE CIRCULAR DATED 29.12.2011 ISSUED BY THE RESPONDENT UNIVERSITY WITH REGARD TO THE PAYMENT OF PENSION IN TIME.

RESPONDENT'S EXHIBITS:

EXT.R1(a):TRUE COPY OF THE SUBMISSION DATED 24.3.2011 SUBMITTED BY THE PETITIONER.

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**EXT.R1(b):TRUE COPY OF THE U.O NO.Ad.D/3049/SSUS/2011 DATED 8.6.2011
ISSUED BY THE UNIVERSITY.**

**EXT.R1(c):TRUE COPY OF THE U.O NO.Ad.D/3049/SSUS/2011 DATED 25.11.2011
ISSUED BY THE UNIVERSITY.**

**EXT.R1(d):TRUE COPY OF G.O.Rt 1132/99/H.Edn DATED 7.10.99 ISSUED BY THE
GOVERNMENT.**

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.26857 of 2012

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner worked in the respondent University on provisional basis initially. Thereafter, on regular basis from 2004 onwards. The petitioner retired from the service on 31.3.2011. The petitioner did not have minimum qualifying service become eligible for pension. The petitioner is given ex-gratia pension.

The case of the petitioner is that as per the relevant provisions of the Kerala Service Rules, 50% of the provisional service also to be reckoned for the purpose of pension. It is submitted that he worked from 1994 onwards. It is also pointed out by the learned counsel for the petitioner that the petitioner belongs to the Last Grade category and an illiterate and worked as a driver. Therefore, any ignorance on his part in

claiming ex-gratia without knowing his right, cannot be taken against him to deny the pensionary benefits.

I am of the view, since the petitioner has already obtained ex-gratia, he shall make his grievance before the syndicate through the Registrar to ventilate his grievances. The syndicate also shall advert to the nature of the job discharged by the petitioner, in the larger interest whether any benefit can be given to him. Therefore, the petitioner shall make a representation in this regard within a period of three weeks from the date of receipt of a copy of this judgment. Thereafter, the syndicate shall take an appropriate decision in this matter in accordance with law.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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