

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 26249 of 2011 (E)

PETITIONER(S):

BIJU K.CHUNDAYAKANDIYIL HOUSE,
ALAYAD, THILLENKERY.P.O, MATTANNUR,
KANNUR - 670 702.

BY ADV. SRI.V.SUNIL KUMAR (PANACHAMOODU)

RESPONDENT(S):

1. THE MANAGER/SECRETARY,
NSS COLLEGES' CENTRAL COMMITTEE,
CHANGANASSERY - 686 101.

2. KANNUR UNIVERSITY, REPRESENTED BY ITS
REGISTRAR, KANNUR UNIVERSITY - 670 101.

3. THE PRINCIPAL,
PR NSS COLLEGE, MATTANNUR, KANNUR DISTRICT - 670 702.

4. DEPUTY DIRECTOR OF COLEGIATE
EDUCATION, CALICUT - 673 032.

5. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, DEPARTMENT OF HIGHER
EDUCATION, THIRUVANANTHAPURAM - 695 001.

R,2 BY ADV. V.A MUHAMMED (SC)

R,R3 BY ADV. SRI.P.GOPAL

RR. BY ADV. GOVERNMENT PLEADER

R2 BY V.A.MUHAMMED

R BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE APPOINTMENT ORDER NO.F/802/2011 DATED 08/02/2011 ISSUED BY THE 1ST RESPONDENT TO THE PTITIONER.

EXT.P2: COPY OF THE ORDER OF APPROVAL OF THE APPOINTMENT DATED 06/07/2011 ISSUED BY THE 2ND RESPONDENT.

EXT.P3: COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT SHOWING TH PENDENCY OF BILL WITH THE 4TH RESPONDENT.

EXT.P4: COPY OF THE COMMON JUDGMENT IN W.P.(C) NO.19082/2010 ETC. AS REPORTED IN 2011 (2) KHC 332.

EXT.P5: COPY OF THE INTERIM ORDER DATED 10/08/2011 IN W.P.(C) NO.20833 OF 2011 OF THIS HON'BLE COURT.

RESPONDENTS EXHIBITS:

EXT.R1(A): COPY OF THE WORKLOAD STATEMENT APPROVED BY THE EDUCATION DEPARTMENT AS WELL AS THE KANNUR UNIVERSITY.

/TRUE COPY/ P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 26249 OF 2011

Dated this the 31st day of March, 2015

JUDGMENT

The above writ petition is filed by the Assistant Professor who was appointed in N.S.S.College, Mattannur. The petitioner was appointed after the selection made by the duly constituted Selection Committee which includes a representative of the Government. His appointment has been approved by the University concerned. He approached this Court on account of non disbursal of salary with effect from the date of appointment. This court by an interim order directed the 4th respondent to disburse the admissible salary along with arrears to the petitioner. The main issue in this writ petition is regarding the work load and non sanctioning of the post.

2. It is to be noted that the petitioner is appointed after selection process made by a duly constituted Selection Committee. Petitioner cannot be denied his salary, once approval is granted, on account of doubt arisen in relation to

the work load and sanctioning of the post, which are all matters exclusively coming under the domain of the University and Collegiate Education. The moment, the University approved the petitioner's appointment by taking note of the work load and the qualifications of the Assistant Professor, necessarily he is entitled for salary. However, objections raised by the Directorate of Collegiate Education cannot be ignored, for the reason that it is their duty to supervise the approval granted by the University and to find out whether the University while granting approval has adverted to the Rules and Regulations coming under the Universities Act and whether the appointment has been made to the admissible post. I am of the view that, the interest of the State to conduct an enquiry into this matter has to be safeguarded.

5. In view of the above facts and circumstances, this writ petition can be disposed of as follows:

a). The interim order already passed by this Court, to pay the admissible salary along with arrears to the petitioner, will continue.

b). The Directorate of Collegiate Education shall, after consulting with the Government, the Principal and the

University concerned, complete the entire exercise regarding the concurrence for the approval of appointment of the writ petitioner within a period of four months from the date of receipt of a copy of this judgment.

c). The salary already paid or payable to the petitioner will be subject to the decision being taken by the Directorate of College Education, after completing such exercise.

d). On completion of such enquiry, if it is found that the petitioner is entitled for approval, the entire arrears shall be paid to him with effect from the date of appointment or from the date on which the claim is admissible, within a further period of three months thereafter.

e). Direction to pay the current month salary onwards will be subject to the satisfaction of the Deputy Director of Collegiate Education that the petitioner's appointment has been approved by the University concerned.

The writ petition is disposed of with the above directions.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/True copy/ PS to Judge.

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

