

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 28881 of 2012 (I)

PETITIONER :

**P.G. JAYARAJAN,
S/O GANGADHARAN, AGED 45 YEARS
LIBRARY ASSISTANT IN CHARGE OF LIBRARIAN
ZAMORINS GURUVAYURAPPAN COLLEGE
CALICUT-14.**

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S) :

- 1. THE MANAGER,
ZAMORIN'S GURUVAYURAPPAN COLLEGE,
CALICUT-14.**
- 2. THE PRINCIPAL,
ZAMORIN'S GURUVAYURAPPAN COLLEGE,
CALICUT-14.**
- 3. UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR, TENJIPPALAM
MALAPPURAM DISTRICT-676 541.**
- 4. DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM-695 001.**
- 5. SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM-695 001.**

***ADDL. R6 IMPEADED**

***ADDL.R6. K.RATHEESH**
LIBRARIAN,
ZAMORINS GURUVAYURAPPAN COLLEGE,
CALICUT.

***IS IMPEADED AS PER ORDER DATED 09/01/2013 IN IA 402/2013.**

R1 & R2 BY ADVS. SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN
R3 BY ADV. SRI.SANTHOSH MATHEW, SC
R4 & R5 BY SR. GOVT. PLEADER SRI. M.A. FAYAZ
ADDL.R6 BY ADVS. SRI.P.RAMAKRISHNAN
SRI.C.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON 12-03-2015 DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1:** TRUE COPY OF THE DEGREE CERTIFICATE ISSUED BY THE UNIVERSITY OF CALICUT TO THE PETITIONER DATED 15.11.1995.
- EXHIBIT P2:** TRUE COPY OF MLISC DEGREE CERTIFICATE ISSUED BY THE UNIVERSITY OF CALICUT TO THE PETITIONER DATED 27.12.1999.
- EXHIBIT P3:** TRUE COPY OF POST GRADUATE DIPLOMA IN LIBRARY AUTOMATION & NETWORKING ISSUED TO PETITIONER BY UNIVERSITY OF HYDERABAD.
- EXHIBIT P3(a):** TRUE COPY OF THE M.PHIL DEGREE CERTIFICATE OF THE PETITIONER.
- EXHIBIT P4:** TRUE COPY OF THE PROCEEDINGS ISSUED BY THE 2ND RESPONDENT DATED 30.11.2004.
- EXHIBIT P5:** TRUE COPY OF THE REPORT DATED 30.11.2004 OF PETITIONER TAKING CHARGE OF THE LIBRARY.
- EXHIBIT P6:** TRUE COPY OF LETTER DATED 11.10.2004 ISSUED BY THE MANAGEMENT TO THE HON'BLE MINISTER FOR EDUCATION.
- EXHIBIT P7:** TRUE COPY OF THE PROCEEDINGS OF THE 4TH RESPONDENT DATED 12.1.2006.
- EXHIBIT P8:** TRUE COPY OF THE COMMUNICATION DATED 2.1.2006 OF THE 5TH RESPONDENT.
- EXHIBIT P9:** TRUE COPY OF THE PETITIONER'S REPRESENTATION DATED 9.3.2006.
- EXHIBIT P10:** TRUE COPY OF G.O. (RT) NO.1766/2003/HIGHER EDUCATION DATED 9.12.2003.
- EXHIBIT P11:** TRUE COPY OF THE JUDGMENT IN WP(C)NO.8223/2006.
- EXHIBIT P12:** TRUE COPY OF THE ORDER OF THE DIRECTOR OF COLLEGIATE EDUCATION DATED 4.8.2006.
- EXHIBIT P13:** TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY THE MANAGER BEFORE THE 5TH RESPONDENT.
- EXHIBIT P14:** TRUE COPY OF THE PETITIONER'S REPRESENTATION DATED 31.8.2006 SUBMITTED TO THE GOVERNMENT.

(Contd...)

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- EXHIBIT P15:** TRUE COPY OF GOVERNMENT ORDER, G.O. (RT) 106/07/H.EDN DATED 20.1.2007.
- EXHIBIT P16:** TRUE COPY OF THE JUDGMENT IN WRIT APPEAL NO.1852/09.
- EXHIBIT P17:** TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT DECLINING THE PETITIONER'S CLAIM FOR THE POST OF LIBRARIAN GRADE-IV.
- EXHIBIT P18:** TRUE COPY OF THE STAFF FIXATION ORDER DATED 11.5.2009 ISSUED BY THE DIRECTOR OF COLLEGIATE EDUCATION FOR THE CURRENT YEAR.
- EXHIBIT P19:** TRUE COPY OF DETAILED REPRESENTATION DATED 28.10.2009 FILED BY THE PETITIONER BEFORE THE GOVERNMENT.
- EXHIBIT P20:** TRUE COPY OF THE INTERIM ORDER OF THE HON'BLE COURT DATED 1.9.2011 IN WP(C) 32418/09.
- EXHIBIT P21:** TRUE COPY OF THE GOVERNMENT ORDER DATED 17.1.2012.
- EXHIBIT P22:** TRUE COPY OF JUDGMENT IN WRIT PETITION (C) 32418/09.
- EXHIBIT P23:** TRUE COPY OF THE NOTIFICATION DATED 8.3.2012 PUBLISHED BY THE 1ST RESPONDENT.
- EXHIBIT P24:** TRUE COPY OF GOVERNMENT ORDER, G.O.(RT)2409/12 DATED 9.11.2012.
- EXHIBIT P25 :** COPY OF NOTIFICATION PUBLISHED IN MATHRUBHUMI DAILY DATED 13-10-2014.
- EXHIBIT P26:** COPY OF GOVERNMENT ORDER G.O.(MS) NO. 490/14/HGR.EDN DATED 14-7-2014.

RESPONDENTS' EXHIBITS :

- EXHIBIT R1(a):** COPY OF THE GOVERNMENT ORDER DATED 17.9.2004.
- EXHIBIT R1(b):** COPY OF THE APPOINTMENT ORDER OF RATHEESH.
- EXHIBIT R1(c):** COPY OF THE LETTER OF MANAGER ZAMORIN'S GURUVAPURAPPAN COLLEGE, DATED 4.12.2012.
- EXHIBIT R1(d):** COPY OF THE ORDER DATED 21ST AUGUST 2009 OF THE MANAGEMENT.

(Contd...)

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**EXHIBIT R1(e): COPY OF THE PROCEEDINGS OF DIRECTOR OF COLLEGIATE
EDUCATION DATED 6.12.2010.**

EXHIBIT R1(f): COPY OF THE CERTIFICATE OF UNIVERSITY OF CALICUT.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.28881 OF 2012

Dated this the 12th day of March, 2015

JUDGMENT

This writ petition is filed by a Library Assistant working at Zamorins Guruvayurappan College challenging orders declining claim for appointment as Librarian Grade-IV.

2. The petitioner entered the service as a peon on 15/3/1985. Thereafter, he was promoted as Lab Assistant and Library Assistant. The petitioner has also acquired qualifications in the Bachelor Degree in Library Science. The post of Librarian became vacant consequent upon the retirement of one Sri.Gopinathan in the year 2002. One Manavedan Raja was put in charge for some time. Thereafter, in the year 2004, the petitioner put in charge of the library. The management, it seems, has initially supported the claim of the petitioner to be appointed as a librarian. However, realizing that after the UGC Scheme and categorizing the college as B Grade College and the post of Librarian Grade IV has become extinct, the management after some time did not

pursue the approval of appointment of the petitioner. The petitioner's case is that the University Statute was not amended and, therefore, he is entitled for to be appointed as Librarian Grade-IV. Accordingly, he approached this court challenging the various orders passed by the authorities and the Government declining his claim.

3. Heard Dr.George Abraham learned senior counsel appearing for the petitioner, Sri.M.C.Sen, learned senior counsel appearing for the respondent -College and the learned Government Pleader appearing for the official respondents.

4. The learned senior counsel pointed out that W.P.(C) No.6385/2007 filed by the petitioner herein and submits that the petitioner's claim has been turned down by this court in the above judgment. This court held that the petitioner failed to make out that the post of Library Assistant is a feeder category promotion post to the post of Librarian.

5. It is to be noted that the Government as per G.O. M.S. 119/04/H.Edn. dated 17/9/2004 issued revised staff pattern for the aided colleges. Based on the revised staff pattern, post of Librarian Grade-IV was abolished upgrading the post of Librarian Grade- I as Librarian- UGC. The Director

of Collegiate Education issued a staff fixation order dated 11/5/2009. As per the staff fixation order, the only post available in the college is Librarian UGC.

6. The petitioner approached the Government by filing Ext.P19 representation challenging the earlier order passed by the Management declining the petitioner's request. Thereafter, the petitioner moved W.P.(C) No.32418/2009. This Court by an interim order dated 1/9/2011 ordered that if the management seeks appropriate modification to Ext.P18 staff fixation order, the Government may consider the same. Thereafter, the Government passed Ext.P21 order stating that it is not possible to appoint a Librarian without NET qualification and creation of the post of IV Grade Librarian instead of UGC Librarian is against UGC norms and will lead to denial of UGC grant. Thus, the fact remains that the post of Librarian Grade IV is not existence in this college and only Librarian UGC alone is available in the college. The claim for appointment as Librarian Grade IV by promotion has already been turned down by this Court. As discussed above, the post of Librarian Grade IV is not in existence. The Management has not challenged the decision of the Government in Ext.P21.

The petitioner's claim for appointment to the post of Librarian Grade IV has been turned down by the Government by Ext.P24. The question mooted by the petitioner, that without amending the University statute his claim cannot be declined, is irrelevant now in the sense by an executive order of the Government the post of Librarian Grade IV has been abolished based on the UGC scheme. Unless and until that is challenged by the Management, the petitioner has no right to claim for appointment to the post Librarian Grade IV. The management is a recipient of UGC aid. As has been noted that the petitioner's claim for promotion has been turned down by this Court in the judgment in W.P.(C) NO.6385/2007, any mode of appointment made to the post of Librarian Grade IV in the year 2005 by the management has no sanctity.

Thus, this writ petition is devoid of merit and, accordingly, dismissed. No order as to costs.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/True copy/ PS to Judge.

