

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. 26033 of 2014 (D)

PETITIONER(S) :

**SIYAD M.A, S/O.MOHAMMED HANEEFA,
ASSISTANT PROFESSOR IN CHEMISTRY,
THANGALKUNJU MUSALIAR COLLEGE OF ARTS AND SCIENCE,
KARIKKODE, KOLLAM - 691 005.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH**

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, PMG JUNCTION, THIRUVANANTHAPURAM - 695 033.**
- 3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
KOLLAM - 691 001.**
- 4. THE UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, PALAYAM,
THIRUVANANTHAPURAM - 695 034.**
- 5. THE MANAGER AND CHAIRMAN OF GOVERNING BODY,
THANGALKUNJU MUSALIAR COLLEGE OF ARTS AND SCIENCE,
KARIKKODE, KOLLAM - 691 005.**

**R1 TO R3 BY GOVERNMENT PLEADER SMT.M.J.RAJASREE
R4 BY ADV. SRI.BECHU KURIAN THOMAS, S.C
R5 BY ADVS. SRI.S.PRASANTH (AYYAPPANKAVU)
SMT.VARSHA BHASKAR**

**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

EXHIBIT P1: TRUE COPY OF THE NOTIFICATION PUBLISHED IN THE HINDU DAILY DATED 21.03.2012.

EXHIBIT P2: TRUE COPY OF THE APPOINTMENT ORDER DATED 24.12.2012 ISSUED BY THE 5TH RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE PROCEEDINGS NO.AC.F III/1/20196/2013 DATED 22.07.2013 OF THE 4TH RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE PROCEEDINGS NO.14164/D2/12/H.EDN. DATED 26.06.2012 OF THE 1ST RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE PROCEEDINGS NO.A2/7487/13 DATED 29.11.2013 OF THE 3RD RESPONDENT.

EXHIBIT P5(A): THE ENGLISH TRANSLATION OF EXHIBIT P5.

EXHIBIT P6: TRUE COPY OF THE PROCEEDINGS NO.A2/5799/13 DATED 27.09.2013 OF THE 3RD RESPONDENT.

EXHIBIT P6(A): THE ENGLISH TRANSLATION OF EXHIBIT P6.

EXHIBIT P7: TRUE COPY OF THE REPLY DATED 01.10.2013 SUBMITTED BY THE PRINCIPAL OF THE 5TH RESPONDENT COLLEGE TO THE 3RD RESPONDENT.

EXHIBIT P7(A): THE ENGLISH TRANSLATION OF EXHIBIT P7.

EXHIBIT P8: TRUE COPY OF THE COMMUNICATION DATED 24.08.2013 SUBMITTED BY THE PRINCIPAL OF THE 5TH RESPONDENT COLLEGE TO THE 3RD RESPONDENT.

EXHIBIT P8(A): THE ENGLISH TRANSLATION OF EXHIBIT P8.

EXHIBIT P9: TRUE COPY OF THE WORKLOADED ASSESSMENT AND STAFF STRENGTH FIXATION FOR THE ACADEMIC YEAR 2011-2012 ISSUED BY THE 4TH RESPONDENT UNIVERSITY ON 04.06.2012.

EXHIBIT P10: TRUE COPY OF THE ORDER DATED 27.01.2011 IN W.P.(C).NO. 666/2011 OF THIS HONOURABLE COURT.

EXHIBIT P11: TRUE COPY OF THE JUDGMENT DATED 10.12.2010 IN W.P.(C).NO.19082 OF 2010.

WP(C).No. 26033 of 2014 (D)

RESPONDENT(S)' EXHIBITS

**EXHIBIT R4(A): TRUE COPY OF THE WORKLOAD ASSESSMENT AND STAFF
STRENGTH FIXATION ORDER DATED 04.06.2012 OF
THE 5TH RESPONDENT COLLEGE.**

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.26033 OF 2014

Dated this the 31st day of March, 2015

JUDGMENT

The above writ petition is filed by the Assistant Professor who was appointed in Thangalkunju Musaliar College of Arts and Science, Kollam. 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 3rd respondent to disburse the salary including the 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 to disburse the salary including 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.

W.P.(C) No. OF 201

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner

The writ petition is disposed of as above.

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. OF 201

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner

The writ petition is disposed of as above.

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

