

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 32055 of 2010 (F)

PETITIONER(S):

**SWAPNA ANTONY, LECTURER IN MALAYALAM,
CO-OPERATIVE & SCIENCE COLLEGE, MADAYI, KANNUR.**

**BY ADVS.SRI.BABU VARGHESE (SR.)
SRI.KAPPILLIL ANILKUMAR
SRI.JOHNSON T. JOHN**

RESPONDENT(S):

- 1. THE MANAGER, CO-OPERATIVE ARTS &
SCIENCE COLLEGE, MADAYI, KANNUR.**
- 2. THE KANNUR UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, MANGATTUPARAMBA, KANNUR.**
- 3. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT, DEPARTMENT OF HIGHER EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, P.M.G.JUNCTION, THIRUVANANTHAPURAM.**
- 5. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, NORTH ZONE, KOZHIKODE.**

**R2 BY ADV. SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY
R3-5 BY SENIOR GOVERNMENT PLEADER SMT.LOWSY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE RELEVANT PORTION OF THE G..O.(MS) NO.S162/999 H.EDN. DATED 6/12/99**
- P1(A): COPY OF THE G.O.(MS) 172/99 H.EDN. DATED 22/12/99 SANCTIONING B.A.MALAYALAM INSTEAD OF B.SC.MATHS.**
- P2: COPY OF THE RELEVANT PAGES OF THE UNIVERSITY ORDER NO.ACAD/A1/5284/98 DATED 14/7/2000 GRANTING AFFILIATION TO THE BA.MALAYALAM COURSE**
- P3: COPY OF THE JUDGMENT DATED 10/2/2006 IN WPC.3985 OF 2006**
- P4: COPY OF THE MINUTES OF THE STATUTORY SELECTION COMMITTEE HELD ON 9/2/2007**
- P5: COPY OF THE APPROVAL ORDER DATED 12/3/2009 ISSUED IN FAVOUR OF THE PETITIONER BY THE UNIVERSITY**
- P6: COPY OF THE REQUEST DATED 28/11/2009 SUBMITTED BY THE PETITIONER BEFORE THE R5**
- P7: COPY OF THE JUDGMENT DATED 18/2/2010 IN WPC.35720/09**
- P8: COPY OF THE ORDER DATED 6/7/10 SENT BY THE R5**
- P9: COPY OF THE ORDER DATED 27/7/10 ISSUED BY THE R5**
- P10: COPY OF ORDER OF THE APEX COURT, DATED 28/9/10 IN SLP (CIVIL) NOS.6896-6898/10**
- P11: COPY OF THE JUDGMENT DATED 14/1/2005 OF THE HONOURABLE SUPREME COURT.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.

W.P.(C) No.32055 of 2010

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner was appointed as Lecturer in Malayalam in an aided College on 09.03.2007. The appointment was approved by the University by Ext.P5 order. This was sanctioned by the Government on condition that the expenditure shall not exceed the budgetary allocation. Challenging non-payment of salary, the petitioner has approached this Court.

2. By the interim order dated 13.01.2011, this Court had passed the following order:

"Heard learned counsel for the petitioner and learned Government Pleader. It is prayed that the salary of the petitioner may be directed to be paid. Learned Government Pleader submitted that in the light of the Government Order dated 20.08.2010 the salary from that date onwards can be disbursed.

Therefore, there will be a direction to the fifth respondent to see that the salary of the petitioner from 20.08.2010 will be released. This will be without prejudice to the right of the petitioner to claim arrears."

3. The petitioner now relies on the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.8459 of 2010 & connected matters, which is produced as Ext.P11, and submits that the issue is covered in the case of the petitioner. I have perused the judgment, in which, the Hon'ble Supreme Court held that when appointment is made to an aided College, based on sanction without financial commitment, there is no reason to deny the salary and it becomes obligatory for the Government to honour the appointment and pay the salary.

4. In view of the above, the petitioner is entitled to salary with effect from the date of appointment. Needful shall be done to release the salary to the petitioner within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE,
JUDGE.

//true copy//

P.S. to Judge

st/-