

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. 29293 of 2014 (J)

PETITIONER(S) :

DR.CHITHRA GOPINATH,
W/O.JAYAKRISHNAN R.S., ASSISTANT PROFESSOR IN CHEMISTRY,
THANGALKUNJU MUSALIAR COLLEGE OF ARTS AND SCIENCE,
KARIKKODE, KOLLAM-691 005.

BY ADV. SRI.D.KISHORE.

RESPONDENT(S) :

1. 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-695033.
3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
KOLLAM-691 001.
4. THE UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, PALAYAM,
THIRUVANANTHAPURAM-695034.
5. THE MANAGER AND CHAIRMAN OF GOVERNING BODY,
THANGALKUNJU MUSALIAR COLLEGE OF ARTS AND SCIENCE,
KARIKKODE, KOLLAM-691005.

BY GOVERNMENT PLEADER SMT.M.J.RAJASREE,
R4 BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA,
R5 BY ADV. SRI.S.PRASANTH (AYYAPPANKAVU) &
R5 BY ADV. SMT.VARSHA BHASKAR.

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

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: COPY OF THE NOTIFICATION PUBLISHED IN THE HINDU DAILY DATED 21.3.2012.
- EXT. P2: COPY OF THE APPOINTMENT ORDER DATED 1.7.2013 ISSUED BY THE 5TH RESPONDENT.
- EXT. P3: COPY OF THE PROCEEDINGS NO.AC.F III/1/42701/2013 DATED 29.4.2014 OF THE 4TH RESPONDENT.
- EXT. P3(A): COPY OF THE PROCEEDINGS NO.AC.F III/1/42701/2013 DATED 23.5.2014 OF THE 4TH RESPONDENT.
- EXT. P4: COPY OF THE PROCEEDINGS NO.14164/D2/12/H.EDN. DATED 26.6.2012 OF THE 1ST RESPONDENT.
- EXT. P5: COPY OF THE PROCEEDINGS NO.A2/9272/14 DATED 30.10.2014 OF THE 3RD RESPONDENT.
- EXT. P5(A): THE ENGLISH TRANSLATION OF EXHIBIT P5.
- EXT. P6: COPY OF THE PROCEEDINGS NO.A2/5799/13 DATED 27.09.2013 OF THE 3RD RESPONDENT.
- EXT. P6(A): THE ENGLISH TRANSLATION OF EXHIBIT P6.
- EXT. P7: COPY OF THE REPLY DATED 1.10.2013 SUBMITTED BY THE PRINCIPAL OF THE 5TH RESPONDENT COLLEGE TO THE 3RD RESPONDENT.
- EXT. P7(A): THE ENGLISH TRANSLATION OF EXHIBIT P7.
- EXT. P8: COPY OF THE WORKLOAD ASSESSMENT AND STAFF STRENGTH FIXATION FOR THE ACADEMIC YEAR 2011-2012 ISSUED BY THE 4TH RESPONDENT UNIVERSITY ON 4.6.2012.
- EXT. P9: COPY OF THE ORDER DATED 27.1.2011 IN WPC NO.666/2011 OF THIS HONOURABLE COURT.
- EXT. P10: COPY OF THE JUDGMENT DATED 10.12.2010 IN WPC NO.19082 OF 2010.
- EXT. P11: THE LIST OF TEACHERS WORKING IN THE DEPARTMENT OF CHEMISTRY AS ON MARCH, 2011.

EXT. P12: COPY OF THE PROCEEDINGS NO.C53702/12 DATED 26/04/2012 OF THE 3RD RESPONDENT.

EXT. P12(A): THE ENGLISH TRANSLATION OF EXHIBIT P12.

EXT. P13: COPY OF THE PROCEEDINGS NO.C53702/12 DATED 26/04/2012 OF THE 3RD RESPONDENT.

EXT. P13(A): THE ENGLISH TRANSLATION OF EXHIBIT P13.

EXT. P14: COPY OF THE STATEMENT OF WORKLOAD FOR THE YEAR 2012-13 ISSUED BY THE 5TH RESPONDENT AND COUNTERSIGNED BY THE 3RD RESPONDENT.

EXT. P14(A): THE ENGLISH TRANSLATION OF THE MALAYALAM STATEMENTS IN EXHIBIT P14.

RESPONDENT(S) ' EXHIBITS :

EXT. R4(A): THE COPY OF THE ORDER APPOINTING THE GOVERNMENT NOMINEE FOR THE SELECTION COMMITTEE DATED 16/06/2012.

EXT. R4(B): THE COPY OF THE POST ADALAT REVIEW.

EXT. R4(C): THE COPY OF THE LETTER DATED 24/10/2014 AND NUMBERED AS A2-9272/2014.

EXT. R4(D): THE COPY OF THE REPLY LETTER DATED 11/11/2014 ISSUED BY UNIVERSITY.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.29293 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. Her appointment has been approved by the University concerned. She 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 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 her 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 she 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 passed by this court to pay 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 her 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

The writ petition is disposed of as above.

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

