

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 30272 of 2015 (H)

PETITIONER(S):

**ANILAJAN P.B.
HATCHERY ASSISTANT-CUM-SYRANG AND DRIVER
SCHOOL OF INDUSTRIAL FISHERIES
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY
KOCHI - 16.**

**BY ADVS.SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN**

RESPONDENT(S):

**COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY
REPRESENTED BY ITS REGISTRAR.**

**R1 BY ADV. SRI.V.A.MUHAMMED
R BY SRI.MILLU DANDAPANI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - COPY OF THE APPOINTMENT ORDER OF THE PETITIONER VIDE NO.AD.A3/14797/96 DATED 18.12.1997 ISSUED BY THE RESPONDENT.
- EXT.P2 - COPY OF THE CERTIFICATE DATED 02.09.2015 ISSUED BY THE DIRECTOR OF SCHOOL OF INDUSTRIAL FISHERIES
- EXT.P3 - COPY OF THE REQUEST DATED 21.08.2015 SUBMITTED BY THE FACULTY MEMBERS OF THE DEPARTMENT BEFORE THE RESPONDENT.
- EXT.P4 - COPY OF THE REQUEST SUBMITTED BY THE STUDENTS AND RESEARCH SCHOLARS BEFORE THE RESPONDENT UNIVERSITY TO PERMIT THE PETITIONER TO CONTINUE IN SERVICE AFTER 30.09.2015
- EXT.P5 - COPY OF THE JUDGMENT DATED 21.02.2013 IN WPC.NO.16981/2012 OF THIS HON'BLE COURT.
- EXT.P6 - COPY OF THE JUDGMENT DATED 02.09.2010 IN WPC.NO.27626/2004 OF THIS HON'BLE COURT.
- EXT.P7 - COPY OF THE ORDER DATED 10.06.2014 IN WPC. NO.14631/2014 OF THIS HON'BLE COURT.
- EXT.P8 - COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT ON 11.09.2015
- EXT.P9 - COPY OF THE JUDGMENT DATED 25.09.2015 IN WPC. NO.29084/2015 OF THIS HON'BLE COURT.
- EXT.P10 - COPY OF THE ORDER NO.AD.G2/COURT MATTER/2012 DATED 30.09.2015 OF THE RESPONDENT.
- EXT.P11 - COPY OF THE NOTIFICATION NO.AD.G2/14797/VOL.II PUBLISHED BY THE RESPONDENT UNIVERSITY.

RESPONDENT(S)' EXHIBITS

- EXT.R1(A) COPY OF THE LETTER OF THE UNIVERSITY DTD. 7.7.15
- EXT.R1(B) COPY OF THE NOTE OF THE VICE CHANCELLOR DTD. 16.9.15
- EXT.R1(C) COPY OF THE DRAFT NOTIFICATION OF THE UNIVERSITY DTD. 29.9.15

// TRUE COPY //

P.A TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.30272 of 2015 - H

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Dated this the 30th day of October, 2015

J U D G M E N T

The petitioner, a Hatchery Assistant-cum-Syrang and Driver, was before this Court claiming continuance under Rule 60(c) of Part I of Kerala Subordinate Rules (K.S.R), wherein teaching staff including Technical Assistants were allowed to be continued till the end of the academic year, if the date of superannuation comes within the course of the academic year. This Court by Ext.P9 directed the University to consider the representation especially in the context of the faculty having requested the continuance of the petitioner. The Registrar having considered the same in compliance with Ext.P9 judgment, rejected the representation. The petitioner was before this Court and this Court had in fact directed that the petitioner be continued till a fresh appointment is made.

2. The University has now filed a counter affidavit, in which it has been clearly stated that the petitioner cannot be treated at par with the teaching staff nor can even be considered as a Technical Assistant. In fact this Court had in Ext.P9 itself found that the petitioner would not come under the definition of the teaching staff. Only on the recommendation of the faculty, he was directed to be considered. However, the faculty cannot be held to have as a say over that of the Registrar of the University. The Registrar having considered the recommendation of the faculty, has decided that the petitioner need not be continued and that a new appointment has to be made.

3. The counter affidavit now filed also discloses that the University intends to make a contract appointment to the post. In such circumstance, the petitioner will have to be retired with effect immediately. The petitioner's retirement will also be

treated as effective from 30.09.2015, his date of superannuation. But the petitioner shall be paid salary for the extended period, in which he was employed in the respondent University, at the rate of contract employees, as is indicated in Ext.R1(a). The petitioner shall be relieved in the After Noon of 31.10.2015.

The writ petition would stand disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/30/10/2015

// true copy //

P.A to Judge.