

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 30866 of 2014 (G)

PETITIONER(S) :

VISHNU CHANDRAN, AGED 26,
S/O.LATE JAYACHANDRAN V., RESIDING AT 'CHITHIRA'
UDUMBOOR, CHEMPAZHANTHY P.O.
THIRUVANANTHAPURAM DISTRICT - 695 587.

BY ADV. SRI.RAJESH P.NAIR

RESPONDENT(S) :-:

1. UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY OF KERALA
PALAYAM, THIRUVANANTHAPURAM - 695 001.

2. THE REGISTRAR,
UNIVERSITY OF KERALA, PALAYAM,
THIRUVANANTHAPURAM - 695 001.

3. THE DEPUTY REGISTRAR (ADMN.),
UNIVERSITY OF KERALA, PALAYAM, THIRUVANANTHAPURAM.

R1-R3 BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF
KERALA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 30866 of 2014 (G)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE PETITIONER'S FATHER'S DEATH CERTIFICATE
ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM.

EXHIBIT P2. TRUE COPY OF THE JUDGMENT DATED 27.08.2013 IN W.P.(C)
NO.20630/13 PASSED BY THIS HON'BLE COURT.

EXHIBIT P3. TRUE COPY OF THE PETITIONER'S SISTER'S DEATH CERTIFICATE
ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM.

EXHIBIT P4. TRUE COPY OF THE REPRESENTATION OF THE PETITIONER'S
MOTHER DATED 02.06.2014 RECOMMENDING THE NAME OF THE PETITIONER GIVEN
TO THE 2ND RESPONDENT

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EXHIBIT P4(A). TRUE ENGLISH TRANSLATION OF EXHIBIT P4

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EXHIBIT P5. TRUE COPY OF THE REPRESENTATION DATED 02.06.2014
SUBMITTED BEFORE THE 2ND RESPONDENT.

EXHIBIT P5(A). TRUE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P6. TRUE COPY OF THE APPLICATION DATED 21.06.2014 SUBMITTED
BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P7. TRUE COPY OF THE COMMUNICATION DATED 18.10.2014 OF THE
2ND RESPONDENT.

EXT.P8: TRUE COPY OF THE RELEVANT PAGE OF THE SCHEME/ORDER.

RESPONDENT(S) ' EXHIBITS
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EXT.R1(A): TRUE COPY OF THE MINUTES OF THE MEETING OF STANDING
COMMITTEE OF THE SYNDICATE ON STAFF HELD ON 6/1/2012.

EXT.R1(B): TRUE COPY OF THE MINUTES OF THE MEETING HELD BY THE
SYNDICATE OF THE UNIVERSITY DATED 16/2/2012.

EXT.R1(C): TRUE COPY OF THE MEMO DATED 22/08/2012 ISSUED BY THE 1ST
RESPONDENT.

EXT.R1(D): TRUE COPY OF THE LETTER DATED 14/10/2014 ISSUED BY THE
ADDITIONAL CHIEF SECRETARY OF THE HIGHER EDUCATION DEPARTMENT OF
GOVERNMENT OF KERALA TO THE 2ND RESPONDENT.

/TRUE COPY/ P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 30866 OF 2014

Dated this the 3rd day of March, 2015

JUDGMENT

The petitioner 's father died -in- harness while working as a medical attender in the Kerala University on 2/11/2007. The petitioner's sister named Smt.Chithra Jayan applied for getting an employment under the Compassionate Employment Scheme. This was rejected on the reason that she was married at that time. Thereafter, the petitioner, being the son, applied under the Compassionate Employment Scheme. The petitioner was pursuing B.Tech Programme during the relevant time. The petitioner's request was considered by the University for providing employment. However, in order to complete the B.Tech Programme, the petitioner sought time to join in the service. That request was accepted by the University and the petitioner was given time up to September 2012.

2. In the meanwhile, based on the Government Order dated 12/4/2010, the petitioner's sister applied for

appointment under the Compassionate Employment Scheme. As per the said Government Order, the married daughter is also entitled to apply on compassionate ground. This application appears to have been filed on 22/2/2013. Since there was no response to her application, She also had approached this Court in W.P.(C) No. 20630/2013. This Court directed the University to take a decision in the matter. The University, after obtaining the views of the Government, took the view that the Order dated 12/4/2010 would only have a prospective effect and it has no retrospective effect. Therefore, the University rejected the claim. Thereafter, the petitioner made Ext. P5 request to grant him an employment under the Compassionate Scheme. This is on account of the fact that the his sister committed suicide on 8/5/2014 during the pendency of the proceedings based on her claim for compassionate employment. Finally, the petitioner also submitted another request-Ext.P6 to the 2nd respondent.

3. Ext.P6 has been rejected by Ext.P7 dated 18/10/2014 stating that the time granted to the petitioner to join the service, i.e. September 2012, has already been over. It is challenging Ext.P7, the petitioner has filed this writ petition.

4. In this matter a counter affidavit has been filed by the Registrar of the University. It is stated therein that the University has given sufficient time to the petitioner to join the University service. However, the petitioner did not join the service within the time granted to him. It is stated in the counter affidavit that, by way of Ext.R1(c), the petitioner was informed about the last date of joining the service. But, the petitioner failed to turn up on the said date. Therefore, the University cannot now accept the request of the petitioner.

5. The only question that survives for consideration is whether the petitioner's claim has to be rejected on account of the delay. The petitioner submits that the reason for non joining the service within the time granted by the University is on account of the fact that by that time the Government issued an order bestowing the benefit on the married daughter of the deceased employee as well. Therefore, the petitioner's sister made an application, as the petitioner hoped that he would be able to obtain another job and provide financial help to the family. However, due to death of his sister, the entire burden is fell on the back of the petitioner. These are all the reasons for non joining of the petitioner to the service of the

University before September 2012.

6. No doubt, the petitioner ought to have joined the service within the time granted by the University. However, going by the fact that the Government issued an order enabling the married daughter to apply for the benefit under the compassionate scheme, the petitioner thought that it would be appropriate if his sister should be allowed to join the service under the Scheme. In such circumstances, delay occurred on the part of the petitioner can be condoned.

7. Considering the Scheme of Compassionate Employment and also taking note of the fact that the University already granted the petitioner time till September 2012, I am of the view that the delay in such circumstances should be condoned permitting the petitioner to join the service. Therefore, this writ petition is allowed. The University shall permit the petitioner to join the service. Needful shall be done by the University within four weeks from the date of receipt of a copy of this judgment.

It is made clear that if the petitioner fails to join the service within the time granted by the University, the claim under the Compassionate Employment Scheme shall be

deemed to have been forfeited by the petitioner.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/True copy/ PS to Judge.

dpk

