

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. 31583 of 2014 (W)

PETITIONER(S) :

V.A.MUHEMMAD FAISAL, AGED 35 YEARS,
S/O.ALIYAR, ASSISTANT PROFESSOR(COMMERCE),
MES ASMABI COLLEGE, VEMBALLUR, THRISSUR-680671.

BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD

RESPONDENT(S) :

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695033.

3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
THRISSUR AT AYYANTHOLE-680 003.

4. THE UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR, THENHIPALAM
MALAPPURAM DISTRICT-673635.

5. THE CORPORATE MANAGER(CORRESPONDENT CHAIRMAN),
MUSLIM EDUCATIONAL SOCIETY, BANK ROAD, CALICUT-673001.

6. THE PRINCIPAL,
MES ASMABI COLLEGE, VEMBALLUR, THRISSUR-680671.

7. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
KOZHIKODE-673020.

R3 BY ADV. GOVERNMENT PLEADER SMT.M.J.RAJASREE
R BY SRI.BABU KARUKAPADATH
R BY SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS

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

WP(C).No. 31583 of 2014 (W)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 COPY OF THE MINUTES OF THE SELECTION COMMITTEE DATED 11/13-1-2013

EXT.P2 COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 27.06.2013

EXT.P3 COPY OF THE ORDER OF THE UNIVERSITY OF CALICUT DATED 12.02.2014

EXT.P4 COPY OF THE ORDER OF THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION

EXT.P4(A) COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P-4

EXT.P5 COPY OF THE ORDER OF THE UNIVERSITY OF CALICUT DATED 09-07-2014.

RESPONDENT(S) ' EXHIBITS

ANNEXURE R3 (A): COPY OF THE LETTER ISSUED BY THE DY.DIRECTOR OF COLLEGIATE EDUCATION, KOZHIKODE, DATED 29/4/2014.

ANNEXURE R3 (B): COPY OF THE LETTER ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.

/TRUE COPY/ P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.31583 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 MES Asmabi College, Thrissur . 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 respondents to disburse the salary 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 court to pay salary 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

The writ petition is disposed of as above.

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

