

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 32533 of 2014 (N)

PETITIONER(S) :

LALU P.,
SECTION OFFICER FC & D (HG), (RTD.),
MAHATMA GANDHI UNIVERSITY, KOTTAYAM,
RESIDING AT SOUPARNIKA, T.M.N 5, THIRUMULLAVARAM P.O.,
KOLLAM-691 012.

BY ADV. SRI.P.C.SASIDHARAN.

RESPONDENT(S) :

1. THE MAHATMA GANDHI UNIVERSITY
REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS,
ATHIRAMPUZHA, KOTTAYAM-686 560.
2. THE VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, UNIVERSITY CAMPUS,
ATHIRAMPUZHA, KOTTAYAM-686 560.
3. THE JOINT DIRECTOR,
LOCAL FUND AUDIT, MAHATMA GANDHI UNIVERSITY AUDIT,
ATHIRAMPUZHA, KOTTAYAM - 686 560.
4. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM-695 001.

R1-R3 BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY &
BY SENIOR GOVERNMENT PLEADER SRI.V.VIJULAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1- TRUE COPY OF THE ORDER OF THE UNIVERSITY DATED 24-10-2013.
- EXHIBIT P2- TRUE COPY OF THE ORDER FIXING THE PAY AS PER UNIVERSITY ORDER NO. 5980/AIV/2013/ADMN. DATED 19-11-2014.
- EXHIBIT P3- TRUE COPY OF THE ORDER OF DEPUTATION DATED 16-09-1993.
- EXHIBIT P4- TRUE COPY OF THE L.P.C. ALONG WITH COVERING LETTER.
- EXHIBIT P5- TRUE COPY OF THE PROCEEDINGS ISSUED BY THE THE DIRECTOR OF HIGHER SECONDARY EDUCATION DATED 29-05-2014.
- EXHIBIT P6- TRUE COPY OF THE OBJECTION BY THE 3RD RESPONDENT DATED 11-06-2014.
- EXHIBIT P6(A) - TRUE ENGLISH TRANSLATION OF EXHIBIT P6.
- EXHIBIT P7- TRUE COPY OF THE COMMUNICATION ISSUED BY THE UNIVERSITY DATED 12-11-2014.
- EXHIBIT P8- TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT DATED 15-11-2014.
- EXHIBIT P8(A) - TRUE ENGLISH TRANSLATION OF EXHIBIT P8,
- EXHIBIT P9- TRUE COPY OF THE ORDER ISSUED BY THE UNIVERSITY DATED 25-11-2014.
- EXHIBIT P10- TRUE COPY OF THE PAY REVISION ORDER THE RELEVANT EXTRACT OF THE SCHEDULE OF POSTS AND SCALE OF PAY IN RELATION TO THE MAHATMA GANDHI UNIVERSITY.
- EXHIBIT P11- TRUE COPY OF THE UNIVERSITY ORDER DATED 06/11/2012.
- EXHIBIT P12- TRUE COPY OF THE RESOLUTION OF THE SYNDICATE DATED 30/09/2013.
- EXHIBIT P13- TRUE COPY OF ORDER ISSUED BY THE UNIVERSITY IN IMPLEMENTATION OF THE SYNDICATE DECISION DATED 21/10/2013.

EXHIBIT P14- TRUE COPY OF THE REPORT SUBMITTED TO THE SYNDICATE
BASED ON WHICH THE SYNDICATE ADOPTED THE
RESOLUTION.

RESPONDENT(S) ' EXHIBITS :

EXHIBIT R1(A) - TRUE COPY OF THE ORDER ENDT. NO.AD.AIII(2)/
3455/3046/06 DATED 11/03/2011 BY THE SYNDICATE OF
THE MAHATMA GANDHI UNIVERSITY.

EXHIBIT R3(A) - TRUE COPY OF THE RELEVANT SCHEUDLE TO SECTION 3(1)
OF THE ACT.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J.

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W.P.(C) No.32533 of 2014

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Dated this the 18th day of March, 2015

JUDGMENT

Read the order dated 27.02.2018. Pursuant to the above order, University made a request on 11.03.2015 (Communication No.Ad AVIII/1/288/2014) before the Government to ratify the promotion of the petitioner as per Exts.P1 and P2 as Section Officer FC & D (HG).

2. The learned Standing Counsel for the University also placed before me the relevant communication dated 11.03.2015 which was sent to the Government for ratification.

3. The petitioner retired from service on 31.05.2014. The Local fund Audit raised an objection in relation to the promotion as Section Officer FC & D (HG). On account of this, the terminal benefits due to the petitioner has been re-fixed.

4. In the proceedings of the Local fund Audit itself it is made clear that the irregularity can be settled after obtaining necessary sanction from the Government. This is how the University has now made a request before the Government by

communication dated 11.03.2015 for ratification.

5. In the counter affidavit filed by the Government it is stated that the University cannot sanction a promotion which was discontinued by the Government. Therefore illegality has been committed by the University in promoting the petitioner.

6. The case of the petitioner is that, the post which was created as per University Act and Statute cannot be abolished by pay revision order.

7. As far as Government is concerned, the University is bound to implement its decision so as to enjoy the aid from the Government. I am of the view that the individual should not suffer on account of any action on the part of the University in granting promotion to him. Considering the fact that the petitioner is retired from the service, the Government has to take a lenient view in this matter, based on the request made by the University for ratification so as not to deny the terminal benefits to the petitioner based on the promotion granted to him as Section Officer FC & D (HG). Treating it as an isolated case necessary decision shall be taken in the light of the above observations based on the communication issued by the

University dated 11.03.2015 within a period of two months.

In view of the above, without prejudice to the petitioner's claim for terminal benefits as claimed by him, the admitted benefit shall be disbursed to him without any delay, in the light of Ext.P9 within six weeks.

The writ petition is disposed of.

A. MUHAMED MUSTAQUE, JUDGE

sj