

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 33383 of 2014 (W)

PETITIONERS:

1. DR.SMITHA S.L.
ASSISTANT PROFESSOR IN PHYSICS
ST.JOSEPH'S COLLEGE FOR WOMEN, ALAPPUZHA - 688 001.
2. SMT. FEBBY PAIVA
ASSISTANT PROFESSOR IN ZOOLOGY
ST.JOSEPH'S COLLEGE FOR WOMEN, ALAPPUZHA - 688 001.
3. SMT. JIBY ABRAHAM
ASSISTANT PROFESSOR IN HOME SCIENCE
ST.JOSEPH'S COLLEGE FOR WOMEN, ALAPPUZHA - 688 001.
4. SRI. BARAKALA PUSHPA
ASSISTANT PROFESSOR IN CHEMISTRY
ST.JOSEPH'S COLLEGE FOR WOMEN, ALAPPUZHA - 688 001.

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

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
DEPARTMENT OF COLLEGIATE EDUCATION, KADAVANTHRA
KOCHI- 682 020.
3. UNIVERSITY OF KERALA, PALAYAM
THIRUVANANTHAPURAM-695 034
REPRESENTED BY ITS REGISTRAR.
4. THE MANAGER
ST.JOSEPH'S COLLEGE FOR WOMEN, ALAPPUZHA-688 001.

BY GOVERNMENT PLEADER SMT. A LOWSY
BY ADVS. SRI.PAUL JACOB, SC, UNIVERSITY OF KERALA
SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS:-

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|---------|---|---|
| EXT.P1 | - | COPY OF THE NOTIFICATION PUBLISHED BY THE 4TH RESPONDENT IN "THE HINDU" DAILY DATED 11-04-2012. |
| EXT.P2 | - | COPY OF THE LETTER NO.14425/D2/12/H.EDN. DATED 16-05-2012 ISSUED BY THE 1ST RESPONDENT. |
| EXT.P3 | - | COPY OF THE SELECT LIST DATED 30-5-2012 FOR ASSISTANT PROFESSOR IN HOME SCIENCE IN RESPECT OF 4TH RESPONDENT COLLEGE. |
| EXT.P4 | - | COPY OF THE APPOINTMENT ORDER NO.41/2012 DATED 04-07-2012 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER. |
| EXT.P5 | - | COPY OF THE APPOINTMENT ORDER NO.44/2012 DATED 04-07-2012 ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER. |
| EXT.P6 | - | COPY OF THE APPOINTMENT ORDER NO.43/2012 DATED 04-07-2012 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER. |
| EXT.P7 | - | COPY OF THE APPOINTMENT ORDER NO.7/2013 DATED 11-02-2013 ISSUED BY THE 4TH RESPONDENT TO THE 4TH PETITIONER. |
| EXT.P8 | - | COPY OF THE ORDER NO.AC. F.III/2/43625/2012 DATED 08-11-2012 ISSUED TO THE 1ST PETITIONER BY THE 3RD RESPONDENT. |
| EXT.P9 | - | COPY OF THE ORDER NO.AC. F.III/2/43625/2012 DATED 08-11-2012 ISSUED TO THE 2ND PETITIONER BY THE 3RD RESPONDENT. |
| EXT.P10 | - | COPY OF THE ORDER NO.AC. F.III/1/18863/2013 DATED 03-06-2013 ISSUED TO THE 3RD PETITIONER BY THE 3RD RESPONDENT. |
| EXT.P11 | - | COPY OF THE ORDER NO.AC. F.III/2/43625/2012 DATED 01-03-2013 ISSUED TO THE 4TH PETITIONER BY THE 3RD RESPONDENT. |
| EXT.P12 | - | COPY OF REQUEST LETTER DATED 24-10-2014 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT. |

[CONTD.....]

EXT.P13 - COPY OF REQUEST LETTER DATED 08-04-2014 SENT BY THE
1ST PETITIONER TO THE 2ND RESPONDENT

EXT.P14 - COPY OF THE JUDGMENT OF THIS COURT DATED 27-08-2014
IN WPC NO.15978/2014.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P(C). No.33383 of 2014

Dated this the 6th day of October, 2015.

JUDGMENT

The petitioners were all appointed in the 4th respondent College affiliated to the 3rd respondent University. The petitioners were appointed as Assistant Professors in various subjects, evidenced by Exts.P4 to P7 appointment letters. The approval of the University was also obtained as is evidenced at Exts.P8 to P11. The petitioners were before this Court, since they were not paid salaries, despite such approval granted by the University.

2. The 2nd respondent has filed a Counter Affidavit, stating that the Government has the authority to appraise the University; if at all any appointments are made in violation of the sanction of posts. In fact, the said communication to the University was answered by the University, as is seen at Ext.R3 (c), specifically relating to the petitioners herein. The University has considered the entire issue and has found that the

appointments were to regular vacancies, which arose on retirement.

3. It is also pertinent to notice that, the appointments were made pursuant to the selection conducted by a Committee, in which the Joint Secretary to Government was also a party. The issue of approval of appointments is covered by two Division Bench decisions of this Court reported in ***Cherian Mathew v. Principal, S.B. College, Changanassery [1998 (2) KLT 144]*** and ***Shalini Rachel v. Manager, Christian College [2007 (3) KLT 355]***.

In such circumstance, the appointments of the petitioners, as approved by the University, have to be recognised by the 2nd respondent and the salary paid in accordance with law. The same shall be computed and paid within a period of two months from the date of receipt of a certified copy of this judgment.

The writ petition is allowed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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//True Copy//

P.A. to Judge.