

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).NO. 33847 OF 2014 (E)

PETITIONER(S):

P.J.SHEELA
PAZHANILATH HOUSE, CHERANALLOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENT(S):

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

2. THE MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, ATHIRAMPUZHA
KOTTAYAM-686562.

3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
ERNAKULAM-682001.

4. THE MANAGER,
ST.PAUL'S COLLEGE, KALAMASSERY, ERNAKULAM-683503.

R2 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY
BY GOVERNMENT PLEADER SMT.SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 33847 OF 2014 (E)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: COPY OF THE ORDER ISSUED BY THE UNIVERSITY DATED 22/03/1990.

P2: COPY OF THE ORDER DATED 13/03/1995.

P3: COPY OF THE ORDER PERMITTING THE PETITIONER TO CONTINUE IN
SERVICE DATED 1/6/1999.

P4: COPY OF THE COMMUNICATION ISSUED BY THE UNIVERSITY DATED
7/6/2001.

P5: COPY OF THE ORDER OF THE DIRECTOR OF HIGHER SECONDARY EDUCATION
DATED 20/10/2001.

P6: COPY OF THE APPOINTMENT ORDER DATED 4/6/2012.

P7: COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DATED
12/02/2013.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33847 of 2014

.....
Dated this the 27th day of May, 2015

J U D G M E N T

The petitioner was appointed as a Lecturer in the College under the management of the 4th respondent in a leave vacancy that arose for the period 04.12.1989 to 14.12.1994. By Ext.P1 order dated 22.03.1990, the said appointment was approved by the respondents. It would appear that the person in whose leave vacancy, the petitioner was appointed namely Sri.Yesudasan, a Lecturer in Physics, extended his leave for a further period of five years, and accordingly, the petitioner continued in service during the period 15.02.1994 to 31.05.1999. This period of service rendered by the petitioner was also approved by the respondents by Ext.P2 order dated 13.03.1995. The aforementioned Sri.Yesudasan availed a further period of leave from 01.06.1999 to 31.05.2004. For the said spell also the petitioner was permitted to continue in the leave vacancy by Ext.P3 order dated 01.06.1999. The appointment of the petitioner for the said period, however, was not approved by the University in Ext.P4 order dated 07.06.2001 for the reason that the staff fixation for the period 01.06.1999 to 31.05.2004 was not completed by the said time. It would appear that pursuant to a reduction of work load that was

noticed in the College by Ext.P5 order dated 20.10.2001, the petitioner was deployed to the Government Higher Secondary School, Kalamassery, during the period from 31.10.2001 to 31.03.2006. During this period, the petitioner worked as H.S.S.T in the said School. By Ext.P6 order dated 04.06.2012, the petitioner was thereafter reappointed to the 4th respondent's College as Lecturer(subsequently re-designated as Assistant Professor) to the vacancy that arose consequent to the retirement of Sri.A.V.Alex. While the appointment order of the petitioner was forwarded to the University for approval, there was no action forthcoming from the 3rd respondent, who was the authority competent to approve the appointment of the petitioner. Aggrieved by the inaction of the respondents in approving the appointment of the petitioner with effect from 04.06.2012, the petitioner also preferred Ext.P7 representation before the Director of Collegiate Education. It is when the representation of the petitioner yielded no response that the petitioner had approached this Court through the present writ petition seeking a direction to the University to approve her appointment with effect from 04.06.2012 and for a declaration that she was qualified to be a claimant under Section 62 (2) (b) of the Mahatma Gandhi University Act, 1985.

2. A counter affidavit has been filed on behalf of the 2nd respondent wherein it is pointed out that on reappointment of the petitioner with effect from 04.06.2012, it was found that the petitioner did not possess the NET/Ph.D., qualification that was prescribed as a mandatory qualification under the UGC Scheme, 2000. It is stated that the UGC Scheme was implemented in the University with effect from 01.01.1996, and hence, in the absence of the prescribed mandatory qualification, the petitioner could not have been considered for reappointment to the College as Lecturer with effect from 04.06.2012. The petitioner has since resigned from the College with effect from 30.05.2014. Although, the counter affidavit of the 2nd respondent refers to a letter of the Deputy Director of Collegiate Education dated 18.07.2014 that is addressed to the 4th respondent informing him that the approval of the petitioner cannot be considered, a copy of the said letter, that is produced at the time of hearing, does not disclose any reasons for the said decision of the 3rd respondent. It is further stated that, subsequently Rajeshmon.V.G., was appointed as Assistant Professor, Department of Physics with effect from 07.11.2013 by an order dated 31.10.2014 and the said appointment of the petitioner was also approved by the 3rd respondent.

3. I have heard the learned counsel for the petitioner, the learned Standing counsel for the 2nd respondent and also the learned Government Pleader on behalf of the respondents 1 and 3.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the limited prayer of the petitioner at this stage of the proceedings is in respect of the approval for the period from 04.06.2012, when she worked in the College as a Lecturer (subsequently re-designated as Assistant Professor) till the date of her resignation namely 30.05.2014. Although, the appointment order of the petitioner was forwarded to the 3rd respondent for approval, there was no order passed by the 3rd respondent in the matter which was communicated to the petitioner. Although, the counter affidavit of the 2nd respondent indicates that by a letter dated 18.07.2014, the 4th respondent Manager was informed by the 3rd respondent that the approval to the appointment of the petitioner could not be considered, a perusal of the said letter would indicate that there are no reasons specified therein for the denial of the approval. Under such circumstances, and taking note of the fact that the petitioner has since resigned from the service under the 4th respondent, I dispose the writ petition with a direction to the 3rd

respondent to consider and pass orders on Ext.P7 representation preferred by the petitioner, which though addressed to the Director of Collegiate Education ought to be considered by the 3rd respondent who is the authority competent to pass orders in respect of the approval of the appointment of the petitioner for the period in question. The 3rd respondent shall therefore pass orders on Ext.P7 representation, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment. To enable the 3rd respondent to do this, I direct the petitioner to produce a copy of the writ petition together with copy of the judgment before the 3rd respondent for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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