IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 26TH DAY OF FEBRUARY 2024 / 7TH PHALGUNA, 1945

WP(C) NO. 6489 OF 2023

PETITIONER:

BALAKRISHNAN.S.M
AGED 52 YEARS
S/O MADHAVAN, SRAMBICKAL HOUSE,
EDAPPULLY ROAD,GURUVAYUR,
THRISSUR DISTRICT., PIN – 680101

BY ADV V.M.KRISHNAKUMAR

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY SECRETARY
DEPARTMENT OF HIGHER EDUCATION,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

2 GURUVAYUR DEVASWOM BOARD
REP. BY ITS ADMINISTRATOR
GURUVAYUR, THRISSUR DISTRICT., PIN - 680101

3 PRINCIPAL
SREEKRISHNA COLLEGE, GURUVAYUR,
THRISSUR DISTRICT., PIN - 680101

4 DIRECTOR OF COLLEGIATE EDUCATION
DIRECTORATE OF COLLEGIATE EDUCATION 6TH FLOOR,
VIKAS BHAVAN, VIKAS BHAVAN P O
THIRUVANANTHAPURAM, PIN – 695033

BY SMT.NISHA BOSE – SR.G.P
SRI.T.K.VIPINDAS, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26.02.2024, ALONG WITH WP(C).1097/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 26TH DAY OF FEBRUARY 2024 / 7TH PHALGUNA, 1945

WP(C) NO. 1097 OF 2023

PETITIONERS:

1 SOORAJ.T.
AGED 26 YEARS
S/O SURESH T.B.,
OFFICE ATTENDANT, SREE KRISHNA COLLEGE,
ARIYANNUR.P.O., GURUVAYOOR, THRISSUR - 680 102,
RESIDING AT: THOZHUR HOUSE,
THOLUR.P.O. THRISSUR, PIN - 680552

2 SINDHU.P.V.
AGED 47 YEARS, W/O SASIKUMAR.K.V.,
OFFICE ATTENDANT, SREE KRISHNA COLLEGE,
ARIYANNUR.P.O., GURUVAYOOR, THRISSUR - 680 102,
RESIDING AT: KARAYIL HOUSE,
POST KOTTAPPADI, GURUVAYOOR,
THRISSUR, PIN - 680505

3 AMAL.K.V.
AGED 28 YEARS, S/O VIJAYAN,
OFFICE ATTENDANT, SREE KRISHNA COLLEGE,
ARIYANNUR.P.O., GURUVAYOOR, THRISSUR - 680 102,
RESIDING AT: ALOOR.P.O., THRISSUR, PIN - 680102

4 AMAL.K.R.
AGED 25 YEARS, S/O RAMACHANDRAN,
OFFICE ATTENDANT, SREE KRISHNA COLLEGE,
ARIYANNUR.P.O., GURUVAYOOR, THRISSUR - 680 102,
RESIDING AT: KUNDANAKATTILL HOUSE, ERUKULAM
BAZAR, GURUVAYOOR, THRISSUR, PIN – 680104

BY ADVS.
KALA T.GOPI
K.I.SAGEER
T.C.GOVINDASWAMY
RENUKA M.R.
NISHITHA BALACHANDRAN
SUDHIR KUMAR B.

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
HIGHER EDUCATION(C) DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001

2 THE ADMINISTRATOR,
GURUVAYOOR DEVASWOM, GURUVAYOOR,
THRISSUR, PIN - 680101

3 PRINCIPAL
THE PRINCIPAL, SREE KRISHNA COLLEGE,
ARIYANNUR.P.O., GURUVAYOOR,
THRISSUR, PIN - 680102

4 SHRI SREEKUMAR.G
ELAVINMOOTIL VEEDU, THRIKOVILVATTOM,
MUKHATHALA.P.O. KOLLAM, PIN - 691577

5 SHRI T.SANTHOSH KUMAR
KAILAS, MANGAYIL H.S.ROAD,
MARADU.P.O. ERNAKULAM, PIN - 682304

6 SHRI SAJI.P.K.
PILAKUNNUMMAL HOUSE, THAVAROOL,
CHENGALAAYI.P.O.,
SREE KANDAPURAM, KANNUR, PIN - 670631

7 SHRI SUNIL.P.
PARAYIL HOUSE, THOZHIYOOR.P.O., ANJOOR,
KUNNAMKULAM(VIA), THRISSUR, PIN - 680520

8 SHRI MANOJ KUMAR
UTHRAM, MALAKKUTHAZHA,
MATTANNUR.P.O. KANNUR, PIN - 670702

BY ADVS.
KALEESWARAM RAJ
THULASI K. RAJ(K/000814/2015)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26.02.2024, ALONG WITH WP(C).4309/2023, 6489/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 26TH DAY OF FEBRUARY 2024 / 7TH PHALGUNA, 1945

WP(C) NO. 4309 OF 2023

PETITIONERS:

1 T. SANTHOSH KUMAR
AGED 48 YEARS, S/O. S. THANKAPPAN NAIR,
KAILAS, MANGAYIL H.S. ROAD,
MARADU P.O., ERNAKULAM, PIN - 682304

2 SREEKUMAR G
AGED 49 YEARS, S/O.GOPALAKRISHNA PILLAI,
SREE VALSAM, THRIKKOVILVATTOM,
MUKHATHALA P.O,KOLLAM, PIN - 691577

3 SUNIL P
AGED 46 YEARS, S/O.BALAN P.M,
PARAYIL P.O. ANJUR,
THRISSUR, PIN - 680520

4 SAJI P K
AGED 44 YEARS, S/O. C.K.DAMODARAN,
PILAKKUNNUMMAL KUTTIYATTH,
THAVAROOL, CHENGALAYI P.O.
SREEKANDAPURAM VIA, KANNUR, PIN - 670631

5 MANOJ KUMAR K
AGED 49 YEARS, S/O.NARAYANAN NAMBIAR,
"UTHRAM", MALAKKUTHAZHA,
MATTANNUR P.O., KANNUR, PIN - 670702

BY ADVS.
KALEESWARAM RAJ
APARNA NARAYAN MENON
CHINNU MARIA ANTONY

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF DEVASWOM SECRETARIAT,
THIRUVANANTHAPURAM, PIN – 695001

2 SECRETARY
DEPARTMENT OF HIGHER EDUCATION
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

3 CHIEF SECRETARY
GOVERNMENT OF KERALA SECRETARIAT,
THIRUVANANTHAPURAM- ., PIN - 695001

4 THE MANAGING COMMITTEE
GURUVAYUR DEVASWOM BOARD,
REPRESENTED BY ITS ADMINISTRATOR,
GURUVAYUR P.O THRISSUR- ., PIN - 680101

5 GURUVAYUR DEVASWOM BOARD
REPRESENTED BY ITS ADMINISTRATOR,
GURUVAYUR DEVASWOM, GURUVAYUR P.O,
THRISSUR, PIN - 680101

6 MANAGER/ADMINISTRATOR
GURUVAYUR DEVASWOM, GURUVAYUR P.O,
THRISSUR, PIN - 680101

7 MANAGER
SREEKRISHNA COLLEGE,
GURUVAYUR GURUVAYUR,
THRISSUR, PIN - 680101

8 PRINCIPAL
SREEKRISHNA COLLEGE,
GURUVAYUR, THRISSUR, PIN - 680101

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26.02.2024, ALONG WITH WP(C).1097/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J.

- -

W.P.(C) Nos. 6489, 1097 & 4309 OF 2023

- -

Dated this the 26th day of February, 2024

J U D G M E N T

W.P.(C) No. 6489 of 2023.

The petitioner had participated in the selection process for the appointment of Last Grade Servants pursuant to the notification dated 20/11/1998. Ext.P1 rank list was published on 01/06/2000, in which the petitioner figures as ranked No.3. The petitioner and 12 others were offered employment as Last Grade Servants by proceedings dated 02/06/2000 of the Administrator of Guruvayur Devaswom. The fourth respondent, the Director of Collegiate Education, had approved the appointment of 12 persons, including the petitioner, by proceedings dated 09/01/2002. The second respondent Board had also, by resolution dated 25/12/2001, requested the Director of Collegiate Education to give permanent appointment to the said 12 persons as well as to the petitioner when vacancies arose. The resolution of the Board was not accepted by

the Deputy Director of Collegiate Education, and on 09/01/2002, the petitioner and 12 others were terminated from service.

2. The petitioner had approached this Court by filing W.P.(C) No.14594/2022, wherein this Court directed the Government to take a decision on the representation filed by the petitioner. The Director of Collegiate Education reiterated the earlier stand. In the meantime, pursuant to the directions of this Court in Ext.P6 judgment in W.P.(C) No.490/2020, Ext.P7 order was passed on 26/12/2022 holding that the petitioners who are similarly placed as the petitioner in the instant case and who worked as temporary hands by appointment through a notification, test and selection process at the Sreekrishna College, Guruvayur during the period from 2001-2004 and who were later terminated owing to delinking of Pre-Degree from Colleges had a preferential claim for appointment to the vacancies that arose later and thus were found to be eligible to be appointed in the existing vacancies of Office Attendants in Sreekrishan College, Guruvayur. Thus, the directions as far as the petitioners in Ext.P6 were complied with by Ext.P7. It is not in dispute that the petitioner is similarly situated as those appointed as per Ext.P7.

3. Learned Senior Counsel Sri Ranjith Thampan, appearing for

the petitioner, would contend based on Section 57(6)(b) of the Calicut University Act that a teacher relieved from a private college on or after the 14th day of March 1974 either due to the abolition of a course of study or the cessation of the period for which he was appointed or for any other reason except disciplinary action was entitled to be given preference in the matter of, future appointments in the private college. This is made applicable to non-teaching staff as well by the operation of Section 63 of the Calicut University Act. Learned Senior Counsel also brings to my notice the judgments in **2009(1) KHC 36** [Sree Usha N. and another v. State of Kerala and Others], **2007 (3) KHC 109** [V.V.Sathimani v. Payyannur Educational Society and Others], **2014 KHC 4682** [State of Uttar Pradesh and Others v. Arvind Srivastava and Others], **2017 KHC 1049** [Kerala State Cashew Development Corporation v. C.Thomas Panikkar and Others] and **2007 (3) KHC 320** [Ajayakumar T and Others v. Union of India and Another] for the proposition that the petitioner is also entitled to similar treatment and that four vacancies have arisen as the incumbents were promoted.

4. Given the above facts, it is declared that the petitioner is entitled to get an appointment to the next arising vacancy as an Office Assistant in Sreekrishna College, Guruvayur, granting similar treatment

as to the petitioner in Ext.P7 as the petitioner figured in Ext P1 list with a higher rank and had worked for the same period. Orders in this regard shall be passed within two months from the date of receipt of a copy of this judgment.

W.P.(C) No.1097/2023

5. Ext.P7 in W.P.(C) No.6489/2023 is challenged by the petitioners in W.P.(C) No.1097/2023. Learned counsel for the petitioners submits that petitioners 3 and 4 are relinquishing their claims since they were appointed elsewhere, and therefore the writ petition as regards them will stand dismissed. As far as petitioners 1 and 2 are concerned, they are stated to work from 2017 onwards till the passing of Ext.P7 order. Since they are also entitled to be considered for selection to the next arising vacancies, I am inclined to give a direction to respondents 2 and 3 to consider petitioner Nos. 1 and 2 for appointment in the future vacancies, taking note of the explanation to Section 57(6) of the Calicut University Act. Orders shall be passed within two months from the date of receipt of a copy of this judgment.

W.P.(C) No. 4309/2023

6. The petitioners in W.P.(C) No. 4309/2023 seek the implementation of Ext.P7. Since I have already held Ext.P7 is valid and

legal going by the provisions mentioned above, it is declared that their appointments are regular and valid for all purposes, and the benefits under Ext P7 will be granted to them if not already granted. Accordingly, no further orders are required in W.P.(C) No.4309/2023. The writ petitions are allowed as above.

Sd/-
MOHAMMED NIAS C.P.
JUDGE

APA

APPENDIX OF WP(C) 6489/2023

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE RANK LIST PUBLISHED BY THE GURUVAYUR DEVASWOM ON 01.06.2000
EXHIBIT P2	TRUE COPY OF THE RESOLUTION DATED 17.01.2008 OF THE GURUVAYUR DEVASWOM BOARD
EXHIBIT P3	TRUE COPY OF THE RESOLUTION DATED 30.09.2009 OF THE GURUVAYUR DEVASWOM
EXHIBIT P4	TRUE COPY OF THE PROCEEDINGS OF THE GURUVAYUR DEVASWOM BOARD DATED 19.02.2019
EXHIBIT P5	TRUE COPY OF THE JUDGMENT IN WP(C).NO.27561/2015 DATED 27.07.2021
EXHIBIT P6	TRUE COPY OF THE JUDGMENT IN WP(C).NO.490/2020 AND CONNECTED CASES DATED 25.07.2022
EXHIBIT P7	TRUE COPY OF GO(RT).NO.1888.2022/HEDN DATED 26.12.2022
EXHIBIT P8	TRUE COPY OF NEWSPAPER REPORT PUBLISHED IN DESABHIMANI DAILY DATED 23.04.2023
EXHIBIT P9	TRUE COPY OF THE PROCEEDINGS OF ADMINISTRATOR, EC1-5261/2011 DATED 19.04.2023
EXHIBIT P10	TRUE COPY OF THE LETTER DATED 18.08.2023 OF PRINCIPAL OF SREEKRISHNA COLLEGE GURUVAYUR TO THE ADMINISTRATOR GURYVAYUR DEVASWOM, NO.G1/1758/2023 DATED 18.08.2023

RESPONDENT EXHIBITS

EXHIBIT R2(A)	TRUE COPY OF THE JUDGMENT IN WRIT APPEAL NO.191/2014 IS DATED 12-08-2014
EXHIBIT R2(B)	TRUE COPY OF THE ORDER OF THE HONOURABLE SUPREME COURT OF INDIA IN SPECIAL LEAVE TO APPEAL (C) NO. 32118/2014 DATED 30.06.2015
EXHIBIT R2(C)	TRUE COPY OF THE GOVT ORDER NO G.O.(RT) 1129/2019/HEDN DATED 4.7.2019
EXHIBIT R2(D)	THE TRUE COPY OF THE DECISION NO 89 OF GURUVAYUR DEVASWOM MANAGING COMMITTEE DATED 23-08-2023

APPENDIX OF WP(C) 1097/2023

PETITIONER EXHIBITS

EXHIBIT-P1	A TRUE COPY OF THE ORDER BEARING NO.EC1-2777/2016 DATED 26.08.2017, ISSUED BY THE 2ND RESPONDENT.
EXHIBIT-P2	A TRUE COPY OF THE ORDER BEARING NO.EC1-1688/18 DATED 03.07.2019, ISSUED BY THE SECOND RESPONDENT.
EXHIBIT-P3	A TRUE COPY OF THE NOTIFICATION SO PUBLISHED IN THE DESABHIMANI DATED 15.6.2018.
EXHIBIT-P4	A TRUE COPY OF THE SAID COMMON JUDGEMENT IN W.P.(C) NO.20358/2019, W.P.(C) NO.490/2020 AND W.P.(C) NO.2395/202 DATED 25.07.2022.
EXHIBIT-P5	EXHIBIT-P5: A TRUE COPY OF THE ORDER ISSUED BEARING G.O.(RT)NO.1888 /2022/ HEDN DATED 26.12.2022.
EXHIBIT-P6	A TRUE COPY OF THE ORDER BEARING NO.EC1-5261/2011 DATED 19.04.2023 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT-P7	A TRUE COPY OF THE ORDER BEARING NO.G/1719/2023 DATED 24.04.2023, ISSUED BY THE THIRD RESPONDENT.

APPENDIX OF WP(C) 4309/2023

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONERS DATED 03.06.2000.ALONG WITH TYPED COPY
EXHIBIT P2	TRUE COPY OF THE ORDER DATED 01.07.2003 IN O.P NO. 14594/2002.ALONG WITH TYPED COPY
EXHIBIT P3	TRUE COPY OF THE JUDGMENT DATED 29.07.2004 IN WP(C) NO. 12083/2004.
EXHIBIT P4	TRUE COPY OF THE JUDGMENT DATED 22.10.2018 IN WP(C) NO. 34242/2018.
EXHIBIT P5	TRUE COPY OF THE ORDER BEARING NO. R1-8068/15 DATED 15.10.2019.
EXHIBIT P6	TRUE COPY OF THE ORDER IN WP(C) 37574/2018 DATED 21.11.2018.
EXHIBIT P7	TRUE COPY OF G.O.(RT) NO.1129/2019/HEDN DATED 04.07.2019.
EXHIBIT P8	TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1 ST PETITIONER DATE 2.07.2018.
EXHIBIT P9	TRUE COPY OF THE JUDGMENT DATED 25.09.2017 IN WP(C) NO. 7781/2017.
EXHIBIT P10	TRUE COPY OF G.O.(P)182/74/PD DATED 26.07.1974.
EXHIBIT P11	TRUE COPY OF THE LETTER DATED 28.11.2009.
EXHIBIT P12	TRUE COPY OF THE RTI REPLY DATED 17.01.2022.ALONG WITH FIXATION ORDER
EXHIBIT P13	TRUE COPY OF THE COMMON JUDGMENT IN WP(C) 2395/2022, WP (C) 20358/2019, AND WP (C) 490/2020 DATED 25.07.2022.
EXHIBIT P14	TRUE COPY OF THE ORDER NUMBERED G. O (RT) NO. 1888/2022/HEDN DATED 26.12.2022 ISSUED BY THE 2 ND RESPONDENT WITH TYPED COPY