

State of Kerala and Others Vs. S.Anil Kumar and Others

State of Kerala and Others Vs. S.Anil Kumar and Others

SooperKanoon Citation : sooperkanoon.com/1128545

Court : Kerala

Decided On : Feb-06-2014

Judge : Honourable Mr.Justice Thottathil B.Radhakrishnan

Appellant : State of Kerala and Others

Respondent : S.Anil Kumar and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE
HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE THURSDAY, THE6H
DAY OF FEBRUARY201417TH MAGHA, 1935 WA.No. 2621 of 2009 ()
----- AGAINST THE

ORDER

/

JUDGMENT

IN WP(C) 13371/2007 of HIGH COURT OF KERALA DATED0607-2009
APPELLANT(S)/RESPONDENTS13 & 4 IN THE WPC:
----- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, HIGHER
EDUCATION DEPARTMENT, GOVERNMENT
SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DIRECTOR OF COLLEGIATE EDUCATION, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, SOUTH ZONE, KOLLAM. BY SENIOR GOVERNMENT PLEADER, SRI.NOBLE MATHEW RESPONDENT(S)/PETITIONERS & RESPONDENTS 2 & 5 IN THE WPC:

----- 1.
S.ANIL KUMAR, LECTURER IN BOTANY, SREENARAYANA COLLEGE, KOLLAM.

2. S.BAIJU, LECTURER IN MATHEMATICS, SREENARAYANA COLLEGE, PUNALUR.

3. UNIVERSITY OF KERALA, REPRESENTED BY ITS REGISTRAR, UNIVERSITY BUILDINGS, THIRUVANANTHAPURAM.

4. THE MANAGER, S.N.TRUST, KOLLAM. R1 & R2 BY ADV. SRI.M.S.RADHAKRISHNAN NAIR R3 BY ADVS. SRI.GEORGE POONTHOTTAM, SC, KERALA UT. SRI.M.RAJAGOPALAN NAIR R4 BY ADV. SRI.A.N.RAJAN BABU THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06-02-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: DG THOTTATHIL B.RADHAKRISHNAN & A.MUHAMED MUSTAQUE, JJ.

----- W.A.No.2621 of 2009
----- Dated this the 6th day of
February, 2014

JUDGMENT

Thottathil B.Radhakrishnan, J.

1. Heard the learned Senior Government Pleader, the learned counsel for the University, the learned counsel for the private respondents/writ petitioners and the learned counsel for the Management. 2. The writ petitioners were appointed on 05.03.1997 as against substantive vacancies (retirement vacancies) in S.N.College under the Sree Narayana Trust. They were placed in a scale of pay of

Rs.2060-3200 + DA and other admissible allowances on a pay of Rs.2,060/- per month. They claimed benefit at par with Sri.Santhoshlal P.S who obtained Ext. P5 judgment of this Court. Santhoshlal was appointed in the same college as lecturer on 01.08.1997, ie., a few days short of 5 months after the appointment of the petitioners in this case. The Division Bench withdrawing the original petition filed by Santhoshlal W.A..No.2621/2009 2 decided it along with a writ appeal filed challenging the interim order in that original petition. The Bench dilated on the effect of Clause 5 of the Pre-Degree Course (Abolition) Act and held that there was no total ban of appointment and even according to the Empower Committee, the proposal for ban would not take in posts which related to period prior to 03.06.1997, the date on which the ordinance prohibiting creation or filling up of posts in the wake of PDC de-linking came into effect. Santhoshlal's case was thus decided by the Division Bench holding that in that case, vacancy arose before 03.06.1997 and Santhoshlal having been appointed as against that vacancy under UGC Scheme, his appointment was approved and he was, therefore, eligible to be paid. 3.In the case in hand, the petitioners were appointed on 05.03.1997, even before Santhoshlal. That appointment was against a substantive vacancy. The substantive vacancy had arisen, obviously, before the above noted cut off date. There is no reason to identify those posts in the Department of Mathematics or Department of Botany in the S.N.College, Kollam, as posts which were to be earmarked to be de-linked W.A..No.2621/2009 3 along with the PDC de-linking process. Under such circumstances, we find no ground to interfere with the impugned judgment of the learned single Judge since all that the writ petitioners got under that judgment is the benefit that Santhoshlal got in terms of Ext.P5 judgment of the Division Bench. The writ appeal, hence, fails. In the result, this writ appeal is dismissed. No costs. Let the amounts due in terms of the judgment of the learned single Judge will reach the writ petitioners on or before 30.04.2014, going by the norms as to apportionment towards Provident Fund etc. Sd/- (THOTTATHIL B.RADHAKRISHNAN, JUDGE) Sd/- (A.MUHAMED MUSTAQUE, JUDGE) //TRUE COPY// P.A TO JUDGE DG