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Pradeep Kumar.S vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1850073

Court : Kerala

Decided On : Sep-30-2019

Judge : Honourable Mr.Justice a.M.Shaffique,Honourable Mr.Justice T.V.Anilkumar

Appeal No. : WA/433/2019

Appellant : Pradeep Kumar.S

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941 WA.No.433 OF 2019 AGAINST THE JUDGMENT DATED 16.11.2018 IN WP(C) NO.27941/2017(P) OF HIGH COURT OF KERALA APPELLANTS/PETITIONERS 2,3,5,7,9,11,15 & 18: 1 PRADEEP KUMAR.S, AGED 44 YEARS, EDUCATION, THOTTAKAD. 2 SUNNYRAJ.A., EDUCATION, PAYIPPAT, ALAPPUZHA.

3 SINDHU SEBASTIAN, LECTURER IN SOCIAL SCIENCE, UNIVERSITY COLLEGE OF TEACHER EDUCATION, KANJIRAPPALLY.

4 RAJINI ALEX, EDUCATION, ERATTUPETTA. 5 PREEJA.K.GOPAL, EDUCATION, KANJIRAPPALLY. 6 SIBI JOSEPH, LECTURER ON SCALE OF PAY, UNIVERSITY COLLEGE OF TEACHER EDUCATION, ERATTUPETTA. 7 BINDURAJ.K., LECTURER IN MALAYALAM, UNIVERSITY COLLEGE OF TEACHER EDUCATION, THOTTAKKAD. 8 RESELIT MICHAEL, EDUCATION, ERATTUPETTA. BY ADV. DR.GEORGE ABRAHAM -:2:- RESPONDENTS/RESPONDENTS & PETITIONERS 1,4,6,8,10,12 TO 14, 16 & 17:

1 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PORIYADARSINI HILLS P.O., ATHIRAMPUZHA, KOTTAYAM - 686 560. 3 THE REGISTRAR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O., ATHIRAMPUZHA, KOTTAYAM - 686 560. 4 CENTRE FOR PROFESSIONAL AND ADVANCE STUDIES REPRESENTED BY ITS DIRECTOR, SCHOOL OF MEDICAL EDUCATION, GANDHI NAGAR, KOTTAYAM - 686 008.

5 RAJEEVNATH.K.R. EDUCATION, ELANTHOOR PATHANAMTHITTA. 6 DR.A.MANJU EDUCATION, ELANTHOOR, PATHANAMTHITTA. 7 SHEEJA.S. EDUCATION, ERATTUPETTA. 8 GANGA.P.S. EDUCATION, THRIPPUNITHURA. 9 SAMEERA.K. EDUCATION, ERATTUPETTA. 10 PAUSY.V.A. EDUCATION, ERATTUPETTA. 11 HARIPRIYA EDUCATION, THRIPPUNITHURA. -:3:- 12 SAJEEV.C.NAIR PHYSICAL EDUCATION, LECTURER ON CONTRACT, UNIVERSITY COLLEGE OF TEACHER EDUCATION, THOTTAKKAD, CHEMBAKKARA P.O. 13 SUBASH.R. MUSIC INSTRUCTOR ON CONTRACT, UNIVERSITY COLLEGE OF

TEACHER EDUCATION, NEDUMKANDAM. 14 SINU.K.R. MUSIC INSTRUCTOR ON CONTRACT, UNIVERSITY COLLEGE OF TEACHER EDUCATION, THOTTAKKAD. R1 BY SR.GOVT. PLEADER SRI. A.J. VARGHESE R2 BY ADV. SRI SURIN GEORGE IPE FOR R-1 TO R-3 B/O R4 BY ADV. P.C SASIDHARAN FOR R-4 B/O R5-7, R9-11 BY SRI.P.SREEKUMAR,SC,KERALA UTY.HEALTH AND ALLIED SCIENCE R5-7, R9-11 BY ADVS. SRI.K.ARJUN VENUGOPAL SMT.V.A.HARITHA THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30.09.2019, ALONG WITH WA.136/2019, WA.754/2019, WP(C).23147/2019(P), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:4:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941 WA.No.136 OF 2019 AGAINST THE JUDGMENT DATED 22.11.2018 IN WP(C) NO.35248/2018(E) OF HIGH COURT OF KERALA APPELLANTS/PETITIONERS: 1 SUDHA.K.S, AGED 48 YEARS, W/O.MADHU, PRINCIPAL, COLLEGE OF TEACHER EDUCATION, VAIKOM, KOTTAYAM DISTRICT.

2 SHEENA KARIM PRINCIPAL, COLLEGE OF TEACHER EDUCATION, PAIPPAD, CHENGANASSERY, KOTTAYAM DISTRICT. 3 SUJA K.K. PRINCIPAL, COLLEGE OF TEACHER EDUCATION, THODUPUZHA, IDUKKI DISTRICT. BY ADV. DR.GEORGE ABRAHAM RESPONDENTS/RESPONDENTS: 1 MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PRIYADARSINI HILLS, KOTTAYAM-686 560. 2 REGISTRAR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560. -:5:- 3 VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560.

4 COORDINATOR, UNIVERSITY COLLEGE OF TEACHER EDUCATION MAIN CENTRE, M.G.UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560. 5 CENTRE FOR PROFESSIONAL AND ADVANCE STUDIES REPRESENTED BY

ITS DIRECTOR, ARPUKARA, MEDICAL COLLEGE P.O., KOTTAYAM-686 521. 6 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R2 BY ADV. SURIN GEORGE IPE FOR R-1 TO R-3 R6 BY GOVT.PLEADER FOR R-6 OTHER PRESENT: SRI. A.J. VARGHESE-SR.G.P. THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30.09.2019, ALONG WITH WA.433/2019, WA.754/2019, WP(C).23147/2019(P), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:6:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941 WA.No.754 OF 2019 AGAINST THE JUDGMENT DATED 16.11.2018 IN WP(C) 30897/2017(J) OF HIGH COURT OF KERALA APPELLANTS/PETITONERS 1 TO 4 & 11: 1 SHAKILA.K.S., AGED 51 YEARS THODUPUZHA 2 SREEJITH K NAIR, THODUPUZHA 3 THOMAS N ISSAC, THODUPUZHA 4 BINDU C.R., THODUPUZHA 5 SULOCHANA R, THODUPUZHA BY ADV. DR.GEORGE ABRAHAM RESPONDENTS/RESPONDENTS & PETITIONER 5 TO 10, 12 & 13:: 1 MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PRIYADARSINI HILLS, KOTTAYAM - 686 560 -:7:- 2 REGISTRAR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560 3 VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560

4 COORDINATOR, UNIVERSITY COLLEGE OF TEACHER EDUCATION MAIN CENTRE, M.G. UNIVERSITY, PRIYADARSINI HILLS, KOTTAYAM - 686 560 5 CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES REPRESENTED BY ITS DIRECTOR, ARPUKARA, MEDICAL COLLEGE P.O., DOTTAYAM - 686 521. 6 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT,

THIRUVANANTHAPURAM - 695 001.

7 DR. SOLY V.G., NEDUMKANDAM. 8 MEREENA NOBLE, THOTTAKKAD, KOTTAYAM. 9 SREEKUMAR S, KUMALI 10 ROY MATHEW, NEDUMKANDAM. 11 DR. SRINIVASAN K.K., VAIKOM. 12 LIYA P, NEDUMKANDAM. 13 GEETHUMOL T.K., NEDUMKANDAM. -:8:- 14 DR. SARAMMA JOY, ELANTHOOR, PATHANAMTHITTA R1-3 BY ADV. SURIN GEORGE IPE(B/O) R5 BY ADV. P.C.SASIDHARAN(B/O) R6 BY GOVERNMENT PLEADER(B/O) THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30.09.2019,

ALONG WITH WA.136/2019, WA.433/2019, WP(C).23147/2019(P), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:9:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941 WP(C).No.23147 OF 2019(P) PETITIONERS: 1 SUDHA K.S., AGED 48 YEARS, W/O.MADHU.P.B., PRINCIPAL, COLLEGE OF TEACHER EDUCATION, VAIKKOM, KOTTAYAM DISTRICT. 2 SHEENA KARIM, PRINCIPAL, COLLEGE OF TEACHER EDUCATION, PAIPPAD VIA, CHANGANASSERY, KOTTAYAM DISTRICT. 3 SUJA.K.K., PRINCIPAL, COLLEGE OF TEACHER EDUCATION, THODUPUZHA, IDUKKI DISTRICT. BY ADVS.DR.GEORGE ABRAHAM SRI.JOSEPH GOPURAN RESPONDENTS: 1 MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PRIYADARSHINI HILLS, KOTTAYAM-686 560. 2 CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES, REPRESENTED BY ITS DIRECTOR, GANDHI NAGAR, KOTTAYAM-686 008. 3 THE DIRECTOR, CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES, GANDHI NAGAR, KOTAYAM-686 008. 4 CO-ORDINATOR, CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES(CTE), -:10:- GANDHI NAGAR, KOTTAYAM-686 008. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.09.2019, ALONG WITH WA.136/2019, WA.433/2019, WA.754/2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:11:- A.M. SHAFFIQUE &

T.V.ANILKUMAR,JJ.

= & W.P.(C) No.23147 of 2019 - - - - -- Dated this the 30th day of September, 2019

J U D G M E N T

A.M. SHAFFIQUE, J.

W.A. Nos.433 & 754 of 2019 These appeals have been filed inter alia challenging an order passed by the learned Single Judge dismissing the writ petitions as not maintainable. It is now submitted that pursuant to orders issued by the Director, Centre for Professional and Advanced Studies, Kottayam, petitioners are presently working in the capacity of Lecturers and therefore, the writ petition itself has presently become infructuous. It is submitted that they are all continuing as Lecturers in the respective departments. W.A. No.136 of 2019

2. This appeal is filed challenging an order

passed by the learned Single Judge in W.P.(C) No.35248 of 2018 dated 22.11.2018, observing that -:12:- the writ petition filed by the petitioners was not maintainable.

3. Learned counsel for the appellant would

submit that in similar cases, another Division Bench of this Court in W.P.(C) No.2394 of 2018 and connected cases had observed that the teachers, who were working in the University and employees in Centre for Professional and Advanced Studies will be deemed to be deployed by the University on identical terms and conditions they were with the University and their Pay and Allowances should be protected and further observed that the liability to pay the same shall be either on the Society or the University, as decided by the State. This decision has become final and binding on both the parties.

4. In so far as the petitioners were not parties to the said lis, it is pointed out by the learned counsel for the University that the said

judgment has no application to the facts in the

present case and the petitioners herein stand on a totally different footing.

5. It shall be open for the petitioners to

approach the Government seeking appropriate relief with reference to the protection of their scale of -:13:- pay, in which event, the Government shall consider the same and pass appropriate orders.

6. With the above observations, all the writ appeals are disposed of. W.P.(C) No.23147 of 2019

7. This writ petition has been filed by the

Principals of three institutions, inter alia challenging Ext.P18. According to them, they have been working in the capacity of Principal in three different colleges of Centre for Professional and Advanced Studies, Kottayam, as evident from Ext.P17 dated 07.01.2019. They have been given one year time to acquire the required qualification, viz. Ph.D. which is treated as desirable for the purpose of being appointed as Principal. It is submitted that, even before granting such time, Ext.P18 notification has been published on 30.05.2019, in

order to appoint teachers in the respective

colleges, as Principal. In so far as one year time has been granted for acquiring the said qualification, it is only proper that the appointment of Principal in terms of Ext.P18 in respect of the colleges in which the petitioners are functioning may be deferred till they complete the -:14:- one year period. With the above observation, this writ petition is closed. Sd/- A.M.SHAFFIQUE JUDGE Sd/- T.V.ANILKUMAR JUDGE DST -:15:- APPENDIX OF WP(C) 23147/2019 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER DATED 19.03.2001. EXHIBIT P2 TRUE COPY OF THE MEMO ISSUED BY THE 1ST

RESPONDENT DATED 13.12.2010 APPOINTING THE PETITIONER AS PRINCIPAL AT UNIVERSITY COLLEGE OF TEACHER EDUCATION, NEDUMANGAD.

EXHIBIT P3 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT UNIVERSITY DATED 09.02.2011. EXHIBIT P4 TRUE COPY OF THE ORDER ISSUED BY THE DIRECTOR, SCHOOL OF PEDAGOGICAL SCIENCES DATED 27.08.1998. EXHIBIT P5 TRUE COPY OF THE ORDER DATED 28.10.1999 ISSUED BY THE DIRECTOR, SCHOOL OF PEDAGOGICAL SCIENCES. EXHIBIT P6 TRUE COPY OF THE MEMO ISSUED BY THE REGISTRAR DATED 13.05.2011. EXHIBIT P7 TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT UNIVERSITY DATED 10.06.2011. EXHIBIT P8 TRUE COPY OF THE ORDER DATED 28.10.1999. EXHIBIT P9 TRUE COPY OF THE ORDER DATED 05.03.2001. EXHIBIT P10 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT UNIVERSITY DATED 13.12.2010. EXHIBIT P11 TRUE PHOTOCOPY OF THE MEMORANDUM OF

ASSOCIATION RELATING TO THE ESTABLISHMENT OF CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES, KOTTAYAM.

EXHIBIT P12 RELEVANT EXTRACT OF RULES AND REGULATIONS OF CENTRE FOR PROFESSIONAL AND ADVANCED STUDIES. EXHIBIT P13 TRUE COPY OF THE UNIVERSITY ORDER DATED 21.05.2015. EXHIBIT P14 TRUE COPY OF THE COMMUNICATION DATED 27.02.2015 ISSUED BY THE KARAPAGM -:16:- UNIVERSITY. EXHIBIT P15 TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 09.12.2014 ISSUED BY THE 1ST RESPONDENT UNIVERSITY. EXHIBIT P16 TRUE COPY OF THE NOTIFICATION DATED 27.06.2019 ISSUED BY THE 1ST RESPONDENT UNIVERSITY. EXHIBIT P17 TRUE COPY OF THE PROCEEDINGS DATED 07.01.2019 ISSUED BY THE 3RD RESPONDENT. EXHIBIT P18 TRUE COPY OF THE NOTIFICATION DATED 30.05.2019 ISSUED BY THE 2ND RESPONDENT. EXHIBIT P19 TRUE COPY OF THE INTERIM ORDER PASSED IN WA NO.136/2019. EXHIBIT P20 TRUE COPY OF THE INFORMATION ISSUED BY THE 1ST RESPONDENT UNIVERSITY DATED 28.04.2017.

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