

Arya Viswanath Vs. The Manager

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Court : Kerala

Decided On : Mar-27-2015

Judge : Honourable Mr. Justice a.Muhamed Mustaque

Appellant : Arya Viswanath

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE FRIDAY, THE 27TH DAY OF MARCH 2015 6TH CHAITHRA, 1937 WP(C).No. 4218 of 2015 (B)

----- PETITIONER(S)/PETITIONER:

----- ARYA VISWANATH AGED 30 YEARS W/O. C.N. ANAND, CHERULY KOLANETH, PERINGANDOOR P. O., M G KAVU, THRIUR-680581 WORKING AS ASSISTANT PROFESSOR IN MALAYALAM SN COLLEGE, ALATHUR. BY ADV. SRI.M.S.RADHAKRISHNAN NAIR

RESPONDENT(S)/RESPONDENTS: ----- 1. THE MANAGER S. N COLLEGE, KOLLAM-691001.

2. UNIVERSITY OF CALICUT, REP BY ITS REGISTRAR, UNIVERSITY CAMPUS, THENJIPALAM-673636.

3. DIRECTOR OF COLLEGIATE EDUCATION, THIRUVANANTHAPURAM-695001.

4. DEPUTY DIRECTOR, COLLEGE EDUCATION, THRISSUR-680001.

5. STATE OF KERALA, REP BY ITS SECRETARY HIGHER EDUCATION DEPARTMENT, THIRUVANANTHAPURAM-695001. R1 BY ADV. SRI.A.N.RAJAN BABU R2 BY SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS R3 TO R5 BY GOVERNMENT PLEADER SMT. M.J RAJASREE THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-03-2015, ALONG WITH WP(C) 9921/2015 & WP(C) 9874/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: vmr. WP(C).No. 4218 of 2015 (B)

----- APPENDIX PETITIONER(S)' EXHIBITS
----- EXHIBIT P1:- TRUE COPY OF THE APPOINTMENT

ORDER
OF THE PETITIONER. EXHIBIT P2:- TRUE COPY OF THE MINUTES OF THE MEETING OF THE SELECTION COMMITTEE. EXHIBIT P3:- TRUE COPY OF THE WORK LOAD ASSESSMENT

ORDER
IN S N COLLEGE, ALATHUR. EXHIBIT P4:- TRUE COPY OF THE APPROVAL

ORDER
DTD 25/10/2014. EXHIBIT P5:- TRUE COPY OF THE

ORDER
OF THE 4th RESPONDENT. RESPONDENT(S)' EXHIBITS : NIL
----- /TRUE COPY/ P.A. TO JUDGE vmr. A.MUHAMED MUSTAQUE, J.

----- W.P.(C) Nos. 4218, 9874 & 9921 OF 2015 -----
----- Dated this the 27th day of March, 2015 -----

JUDGMENT
The above writ petitions are filed by the Assistant Professors, who were appointed in various colleges under the Corporate Management of S.N.Trusts. These petitioners were appointed after the selection made by the duly constituted Selection Committee which includes a representative of the Government. Their

appointments have been approved by the University concerned. They approached this Court on account of non disbursal of salary with effect from the date of appointment. In W.P.(C) No.4218 of 2015, this Court by an interim order directed the Government to pay the current salary onwards. The main issue in these writ petitions is regarding the work load and non sanctioning of the post.

2. The learned Government Pleader highlighted that S.N.Trusts being a Corporate Management, it is for the want of details regarding the excess teachers in their various colleges W.P.(C) No.4218/2015 & others 2 coming under the different Universities and also on account of non sanctioning of the posts in those colleges, they are unable to disburse the salary. It is further submitted that in most of the appointments made in the colleges coming under the S.N.Trust Corporate Management, the management had not obtained sanction from the Government to appoint teachers.

3. The case of the Standing counsel for the S.N.Trust is that even though there are sufficient work load in the colleges, post is not sanctioned.

4. It appears that there is practical difficulty in identifying the details regarding the excess teachers and to sanction the post for the reason that S.N.Trust is having around 14 aided colleges in Kerala under their Management and there is no coordination to find out excess teachers in those colleges.

5. It is to be noted that the petitioners are appointed after selection process made by a duly constituted Selection Committee. Petitioners cannot be denied their salary, once approval is granted, on account of doubt arisen in relation to the work load and sanctioning of the post, which are all matters exclusively coming under the domain of the W.P.(C) No.4218/2015 & others 3 University and Collegiate Education. The moment, the University approved the petitioners' appointment by taking note of the work load and the qualifications of the Assistant Professor, necessarily they are entitled for salary. However, objections raised by the Directorate of Collegiate Education cannot be ignored, for the reason that it is their duty to supervise the approval granted by the University and to find out whether the University while granting approval has adverted to the Rules and Regulations coming under the Universities Act and whether the appointment has been made to

the admissible post. I am of the view that, the interest of the State to conduct an enquiry into this matter has to be safeguarded.

6. In view of the above facts and circumstances, these writ petitions can be disposed of as follows: a). The interim order already passed in W.P.(C) No.4218/2015, to pay the current month salary onwards, will continue and the petitioners in W.P.(C) Nos.9874/2015 & 9921/2015 shall be paid the current month salary onwards. b). The Directorate of Collegiate Education shall, after consulting with the Government, the Principals and the W.P.(C) No.4218/2015 & others 4 Universities concerned, complete the entire exercise regarding the concurrence for the approval of appointment of the writ petitioners within a period of four months from the date of receipt of a copy of this judgment. c). The salary already paid or payable to the petitioners will be subject to the decision being taken by the Directorate of College Education, after completing such exercise. d). On completion of such enquiry, if it is found that all the petitioners are entitled for approval, the entire arrears shall be paid to the writ petitioners with effect from the date of appointment or from the date on which the claim is admissible, within a further period of three months thereafter. e). Direction to pay the current month salary onwards will be subject to the satisfaction of the Deputy Director of Collegiate Education that the petitioners' appointment has been approved by the University concerned. The writ petitions are disposed of with the above directions. Sd/- A.MUHAMED MUSTAQUE, Judge. dpk /true copy/ PS to Judge. W.P.(C) No.4218/2015 & others 5 W.P.(C) No.4218/2015 & others 6 W.P.(C) No.4218/2015 & others 7 W.P.(C) No.4218/2015 & others 8 W.P.(C) No.4218/2015 & others 9 W.P.(C) No.4218/2015 & others 10 W.P.(C) No.4218/2015 & others 11 W.P.(C) No.4218/2015 & others 12 W.P.(C) No.4218/2015 & others 13 A.MUHAMED MUSTAQUE, J.

----- W.P.(C) Nos. 3797,3967,4257,4290,4311, 4370& 5322 OF2015----- Dated this the 2nd day of March, 2015

ORDER

The respondent-University has approved the appointment of the petitioners. However, the Director of Collegiate Education objected the petitioners' approval on

citing that there are no sufficient work load.

2. Considering the approval of the petitioners, I am of the view that salary shall be paid to the petitioners from the current month onwards. Post the matter on 24/3/2015. A.MUHAMED MUSTAQUE, Judge. W.P.(C) No.4218/2015 & others 14 dpk dpk W.P.(C) No.4218/2015 & others 15 ----- W.P.(C) No. OF201----- Dated this the 26th day of March, 2015

JUDGMENT

The petitioner The writ petition is disposed of as above. A.MUHAMED MUSTAQUE, Judge. W.P.(C) No.4218/2015 & others 16 dpk W.P.(C) No.4218/2015 & others 17 W.P.(C) No.4218/2015 & others 18 W.P.(C) No.4218/2015 & others 19 W.P.(C) No.4218/2015 & others 20 W.P.(C) No.4218/2015 & others 21 W.P.(C) No.4218/2015 & others 22 W.P.(C) No.4218/2015 & others 23

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