

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**MONDAY, THE 29TH DAY OF FEBRUARY 2016/10TH PHALGUNA, 1937**

**WP(C).No. 29488 of 2015 (I)**  
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**PETITIONER(S):**  
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**K.N. DILEEP, AGED 49 YEARS  
ASSISTANT SECTION OFFICER, KANNUR UNIVERSITY  
THAVAKKARA CIVIL STATION P.O., KANNUR-670 002.**

**BY ADV. SRI.P.M.PAREETH**

**RESPONDENT(S):**  
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- 1. KANNUR UNIVERSITY  
REPRESENTED BY ITS REGISTRAR, THAVAKKARA  
CIVIL STATION P.O., KANNUR-670002.**
- 2. VICE CHANCELLOR  
KANNUR UNIVERSITY, AND CHAIRMAN  
UNIVERSITY PROMOTION COMMITTEE THAVAKKARA  
CIVIL STATION P.O., KANNUR-670 002.**
- 3. REGISTRAR  
KANNUR UNIVERSITY AND MEMBER CONVENOR  
UNIVERSITY PROMOTION COMMITTEE, THAVAKKARA  
CIVIL STATION P.O., KANNUR-670 002.**

**Addl.4. THE COMMISSIONER  
KERALA FISHERMEN'S WELFARE FUND BOARD, AYYAPPA NAGAR  
POOKKUNNAM PO., THRISSUR - 680 002.  
(ADDL.R4 IS IMPEADED AS PER ORDER DATED 13.10.2015 IN IA  
14607/15).**

**R4 BY ADV. SRI.ASOK M.CHARIYAN, SC, KFWFB  
R1 -R 3 BY ADV. SRI.VIJU THOMAS, SC, KANNUR UNIVERSITY  
R BY SRI.V.A.MUHAMMED, SC, KANNUR UNIVERSITY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 29-02-2016, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT P1: A TRUE PHOTOCOPY OF THE ORDER AD.A1/5005/2014 (VOL.II)  
DATED 25.9.15.**

**EXHIBIT P2: A TRUE PHOTOCOPY OF THE RELEVANT PORTION OF PART II AND  
PART III OF KANNUR UNIVERSITY FIST STATUTES 1998.**

**EXHIBIT P3: A TRUE PHOTOCOPY OF THE LETTER NO.B/2862/2010 DATED  
30.5.2015 ISSUED BY THE COMMISSIONER KFWFB TO THE  
PETITIONER.**

**EXHIBIT P4: A TRUE PHOTOCOPY OF THE LETTER NO.B/2862/10 DATED 30.5.15  
ISSUED BY THE COMMISSIONER, KFWFB TO THE 3RD  
RESPONDENT.**

**EXHIBIT P5: A TRUE PHOTOCOPY OF THE REVIEW PETITION DATED 24.6.15  
SUBMITTED BY THE PETITIONER BEFORE THE COMMISSION,  
KFWFB.**

**EXHIBIT P6: A TRUE PHOTOCOPY OF THE MEMO NO.AD.A1/3605/11/VOL.II(2)  
DATED 3.8.15 ISSUED TO THE PETITIONER BY THE 3RD  
RESPONDENT.**

**EXHIBIT P7: A TRUE TRUE PHOTOCOPY OF TH EREPLY DATED 19.8.15  
SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**

**RESPONDENT(S)' EXHIBITS:                      NIL**  
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**// TRUE COPY //**

**PA TO JUDGE**

**SB**

**K. VINOD CHANDRAN, J.**

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**W.P.(C) No.29488 of 2015 - I**

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**Dated this the 29<sup>th</sup> day of February, 2016**

**J U D G M E N T**

The petitioner is an Assistant Section Officer, working in the 1<sup>st</sup> respondent University, who was on deputation to the additional 4<sup>th</sup> respondent Board between 14.02.2010 and 07.06.2013. The petitioner in the above writ petition is concerned with the withholding of promotion as per Ext.P1.

2. The petitioner, on the basis of Ext.P1, submits that he is in the zone of consideration for selection to the post of Section Officer in the 1<sup>st</sup> respondent and his promotion has been withheld only on the basis of the order of the Managing Director, evident from Ext.P1 itself that departmental proceedings are initiated against the petitioner for financial

misappropriation, by the additional 4<sup>th</sup> respondent. The petitioner submits that there is no proceeding pending against him and there is only an objection on audit, which would not enable the withholding of a promotion.

3. I have heard the learned Counsel for the petitioner, learned Standing Counsel, appearing for the respondents 1 to 3 and the learned Counsel appearing for the additional 4<sup>th</sup> respondent.

4. The additional 4<sup>th</sup> respondent relies on Exts.P3 and P4 to contend that there was an audit objection, on the basis of which the petitioner was issued with notice at Ext.P3, contending that loss was caused to the Board and the same would have to be recovered from the petitioner. Since the petitioner had been reverted back to the parent department, the same was also informed to the Registrar of the University by Ext.P4. The petitioner is said to have filed a representation

at Ext.P5, against the notice issued at Exts.P3 and P4 before the additional 4<sup>th</sup> respondent.

5. In such circumstance, it is only proper that the additional 4<sup>th</sup> respondent consider the review and decide upon whether any proceedings are intended to be taken against the petitioner. Such a decision shall be taken within a period of three weeks from the date of receipt of a certified copy of this judgment. On the decision being taken, it shall also be intimated to the respondent University. If the additional 4<sup>th</sup> respondent does not intend to take any proceedings departmentally against the petitioner, then necessarily the petitioner would have to be granted promotion from the date, he was entitled to it. If the departmental proceedings are intended, then Ext.P1 shall be considered as a 'sealed cover procedure', by which the petitioner's promotion would be withheld, till the disciplinary proceedings are completed. The

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additional 4<sup>th</sup> respondent if intending to carry on the disciplinary proceedings, shall ensure that it is carried out and concluded expeditiously.

The writ petition hence would stand disposed of.

No costs.

**Sd/-  
K. VINOD CHANDRAN,  
JUDGE**

SB/29/02/2016

// true copy //

P.A to Judge.