

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944
WP(C) NO. 24100 OF 2019

PETITIONER:

ANNAKUTTY P.J., AGED 69 YEARS
W/O. STANISLAVOS BOSE, LAB ASSISTANT (RETIRED),
NEWMAN COLLEGE, THODUPUZHA, RESIDING AT KUNNAMKOTTU
HOUSE, KUDAYATHOOR P.O., THODUPUZHA, IDUKKI DISTRICT,
PIN - 685 590.

BY ADV PAULSON THOMAS

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.
- 2 DIRECTOR OF COLLEGIATE EDUCATION
THRIVANANTHAPURAM, PIN - 695 001.
- 3 DEPUTY DIRECTOR OF COLLEGIATE EDUCATION
ERNAKULAM, PIN - 682 011.

SRI JOSHY THANNICKKAMATTAM-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner assails Ext.P6 proceedings of the Government, whereby, her pensionary benefits between 01.09.2004 and 16.07.2018 have been found to be not eligible, solely because she did not make an application within the time frame as is statutorily mandated, namely within three years from the date of retirement.

2. Sri.Paulson Thomas – learned counsel for the petitioner, explained that there was a controversy with respect to his client's date of birth, which led her to approach this Court and obtain Ext.P1 judgment, pursuant to which, Ext.P2 order was issued correcting her date of birth as 14.08.1949 instead of 22.02.1952. He added that his client, in fact, worked until 28.02.2007, but on account of the change in her date of birth, it becomes necessary to construe that she retired with effect from 31.08.2004. He submitted that since Ext.P2 was issued only on 02.08.2017, his client could have made an application for pensionary benefits only after that date, which she did; and

therefore, that the reasons stated in Ext.P6 are untenable. He thus prayed that Ext.P6 be set aside and the competent Authority be directed to compute and disburse the eligible pension, based on her date of birth mentioned in Ext.P2.

3. The afore submissions of the petitioner were controverted by Sri.Joshy Thannickkamattam – learned Government Pleader, saying that Ext.P6 has only recorded what was mandatory under the statutory scheme. He submitted that since the petitioner did not make an application for pensionary benefits within a period of three years from the date of her retirement, she cannot seek any further relief.

4. I must say that I cannot find favour with the afore submissions of the learned Government Pleader because, as rightly argued by the learned counsel for the petitioner, it is only after Ext.P2 order was issued on 02.08.2017, could she have applied for pension because, otherwise, her date of birth was in a state of confusion. In fact, though the petitioner worked till 28.02.2007 under the impression that she was born on 22.02.1952, when Ext.P2 corrected her date of birth to be 14.08.1949, it may

require to thereafter construe that she retired with effect from 31.08.2004. Obviously hence, the entire claim of the petitioner ought to have been recomputed, reckoning that she retired on 31.08.2004, which could be done only after Ext.P2 order was issued. Resultantly, I find favour with the petitioner and cannot grant approval to the contents in Ext.P6.

5. As a consequence, Ext.P6 is set aside; with a consequential direction to the competent Authority of the Government to reconsider the claim of the petitioner; particularly advertng to Ext.P2 and the fact that she should be now construed to have retired with effect from 31.08.2004; thus leading to computation of pensionary benefits and disbursement of the same to her without any delay, but not later than four months from the date of receipt of a copy of this judgment.

6. Needless to say, if, during the afore process, it is found that the salary drawn by the petitioner until 28.02.2007 or any portion thereof is required to be recovered or adjusted, same shall be intimated to the petitioner, which will, subject to her available remedies, be acceded to, so that the afore exercise can

be completed within the time frame afore fixed.

This Writ Petition is thus ordered.

RR

Sd/ -
DEVAN RAMACHANDRAN
JUDGE

APPENDIX OF WP(C) 24100/2019

PETITIONER EXHIBITS

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| EXHIBIT P1 | TRUE COPY OF THE JUDGMENT IN WP(C) NO. 7150/2008 DATED 27.02.2017. |
| EXHIBIT P2 | TRUE COPY OF THE ORDER OF THE DIRECTOR OF COLLEGIATE EDUCATION DATED 02.08.2017. |
| EXHIBIT P3 | TRUE COPY OF THE APPLICATION FOR SANCTION OF PENSION DATED 04.12.2017. |
| EXHIBIT P4 | TRUE COPY OF THE VERIFICATION REPORT IF THE ACCOUNTANT GENERAL DATED 13.12.2018. |
| EXHIBIT P5 | TRUE COPY OF THE REQUEST OF THE PETITIONER. |
| EXHIBIT P6 | TRUE COPY OF TE GOVERNMENT ORDER DATED 13.03.2019. |