

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 501 of 2015 (K)

PETITIONER(S) :

1. S. VIJAYAN, AGED 48 YEARS  
T.C.50/1279, THALIYAL, KARAMANA P.O.  
THIRUVANANTHAPURAM.
2. V. SATHYAVATHI, 54 YEARS  
T.C.13/680, CHAMBIAN BHASKARAN ROAD, KUNNUKUZHI  
THIRUVANANTHAPURAM.
3. S.RAJENDRAN, 53 YEARS  
T.C.21/1475, CHIRAKUZHI VEEDU, NEDUNGAD  
KARAMANA P.O., THIRUVANANTHAPURAM.
4. J.RAMABHAI, 53 YEARS  
CHIRAYIDITHALAKKAL MELEPUTHANVEEDU,  
KURISUMUTTAM, PEYAD, THIRUVANANTHAPURAM.
5. B.SIVAKUMAR, 51 YEARS  
SHAIBA BHAVAN, MELAMKODE, NEMAM P.O.  
THIRUVANANTHAPURAM.
6. B.RAMANI, 51 YEARS  
MAMBAZHAKUNNU PUTHANVEEDU, NETTAYAM  
MANIKANDESWARAM P.O., THIRUVANANTHAPURAM.
7. S.GIRIJA, 51 YEARS  
T.C.21/989, CHIRAKUZHI MELE PUTHANVEEDU, MANGATTUKONAM  
NEDUNGAD, KARAMANA P.O., THIRUVANANTHAPURAM.
8. L.SUDHA, 50 YEARS  
T.C.50/1815, DHARMAMUDUMBU, VAYALIL HOUSE  
KALADY, KARAMANA P.O., THIRUVANANTHAPURAM.
9. S. SASIKALA  
44 YEARS, T.C. 14/1493  
THOTTUVARAMBU VEEDU  
VAZHUTHACAUD, THIRUVANANTHAPURAM.

10. S. SHEELA, 42 YEARS  
MANKULATH VEEDU  
TC 31/1285, KIZHAKKEPATTAM  
THIRUVANANTHAPURAM.

11. R. MANJU, 41 YEARS  
KANJIRAVILAKAM, KEEZHARANNUR  
NEDUNGAD, KARAMANA P.O.,  
THIRUVANANTHAPURAM.

BY SENIOR ADVOCATE SRI.RENJITH THAMPAN  
BY ADV. SMT. P.R. REENA

RESPONDENT :

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KERALA AGRICULTURAL UNIVERSITY  
HEAD OFFICE, VELLANIKKARA, THRISSUR  
PIN – 680 654  
REPRESENTED BY ITS REGISTRAR.

BY ADV. SRI.BABU JOSEPH KURUVATHAZA, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

Mn

...3/-

**WP(C).No. 501 of 2015 (K)**  
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**APPENDIX**

**PETITIONERS' EXHIBITS :**  
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- EXT.P1: TRUE COPY OF THE ORDER DATED 01/10/2009 ISSUED BY THE UNIVERSITY.**
- EXT.P2: TRUE COPY OF THE ORDER DATED 12/10/2009 ISSUED BY THE RESPONDENT UNIVERSITY.**
- EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 30/07/2013 FILED BY THE PETITIONERS.**
- EXT.P4: TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 2858 OF 2014 DATED 28/02/2014.**
- EXT.P5: TRUE COPY OF THE ORDER OF THE KERALA AGRICULTURAL UNIVERSITY DATED 26/11/2014.**
- EXT. P6: COPY OF THE G.O.(P) NO. 248/80/AD DATED 8/7/1980.**
- EXT. P7: COPY OF THE PROCEEDINGS OF THE PROFESSOR AND HEAD KERALA AGRICULTURAL UNIVERSITY DATED 20.12.2014.**

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

**P.S. TO JUDGE**

**Mn**

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C) No. 501 OF 2015**  
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Dated this the 6<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioners, who were working as casual workers in the Karamana farm of Agricultural Department, were absorbed in the service of the Agricultural University on account of taking over of the farm by the Agricultural University. The issue pertains to reckoning the prior service as qualifying service for pension. This has been rejected by the Registrar of the University as per Ext.P5.

2. The petitioners rely on Ext.P6 Government Order dated 8/7/1980 issued by the Agricultural Department of Government of Kerala. That order relates to Pension (Gratuity) Rules of Departmental Farm Work of the Agriculture Department which includes Animal Husbandry and Dairy Development Department. As per Ext.P6, the petitioners are entitled to get the period of temporary service to be taken into consideration while calculating the pensionary benefits. Rule 4 (e)(iii) of Ext.P6 reads as follows:

“(iii): 200 days or more work in a calendar year during the period of service spent as casual labourer in the departmental farms prior to permanency will be treated as one year qualifying for pension. The number of working days during the remaining period of casual service in the departmental farms will be added together and 200 each such days or fractions thereof will be considered as one year qualifying service for pension. ”

3. It is submitted that in the light of the criteria in the Agricultural Departmental Farm Workers Pension Rules as referred to above, the petitioners are entitled to reckon their prior service as qualified service for pension. The petitioners submit that as the University has already reckoned the prior service of one Bharghavan as per the above Rule for calculating the pensionary benefits, there is no reason for denying the same to them.

4. Once the right accrued to the petitioners to reckon the qualifying service, that right cannot be taken away while absorbing them in the service. It is to be noted that while

absorbing the petitioners as per Ext.P2, they were not denied the right accrued based on the Rules. Therefore, unless and until Rules decline such a right, the right already accrued to them forms part of their regular service.

5.In view of the above, Ext.P5 is set aside. The University is directed to take a decision in the light of the Rules as stated above and also after adverting to Ext.P7, within a period of two months after affording an opportunity of hearing to anyone among those who have been chosen as representatives by the petitioners.

The writ petition is disposed of as above.

**Sd/-**

**A.MUHAMED MUSTAQUE,  
Judge.**

dpk

**/true copy/**

**P.S. To Judge.**

