



OP(KAT) NO. 186 OF 2025

-:1:-

2025:KER:37594

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

FRIDAY, THE 30TH DAY OF MAY 2025 / 9TH JYAISHTA, 1947

OP(KAT) NO. 186 OF 2025

PETITIONER/S:

DR CIZA THOMAS,
AGED 57 YEARS
W/O DR T. JOHN THARAKAN, RESIDING AT K.P-7/240A, EASWARAN
THAMPI NAGAR, KALLAYAM P.O., THIRUVANANTHAPURAM, PIN -
695043

BY ADVS.
NISHA GEORGE
GEORGE POONTHOTTAM (SR.)
A.L.NAVANEETH KRISHNAN
KAVYA VARMA M. M.
SILPA SREEKUMAR

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HIGHER EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 682031
- 2 THE DIRECTOR OF TECHNICAL EDUCATION,
OFFICE OF THE DIRECTOR OF TECHNICAL EDUCATION, PADMAVILASAM
ROAD, FORT P.O., THIRUVANANTHAPURAM, PIN - 695002
- 3 THE ACCOUNTANT GENERAL, KERALA,
AG'S OFFICE COMPLEX, CANTONMENT STATION RD, STATUE, PALAYAM,
THIRUVANANTHAPURAM, PIN - 695001



OP(KAT) NO. 186 OF 2025

-:2:-

2025:KER:37594

4 MR. AJAYAN C,
 ADDITIONAL SECRETARY TO GOVERNMENT, HIGHER EDUCATION
 DEPARTMENT (G/J), GOVERNMENT OF KERALA, THIRUVANANTHAPURAM,
 PIN - 695001

SENIOR GOVERNMENT PLEADER SHRI A.J.VARGHESE

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY HEARD ON
26.05.2025, THE COURT ON 30.05.2025 DELIVERED THE FOLLOWING:



A. MUHAMED MUSTAQUE & JOHNSON JOHN, JJ.

O.P. (KAT). No. 186/2025

Dated this the 30th day of May 2025

J U D G M E N T

A. Muhamed Mustaque, J.

The petitioner, Dr. Ciza Thomas, retired from the Government Engineering College as a Principal on 31/03/2023. This appears to be a third round of litigation for her, solely because she had assumed the office of Vice Chancellor of A.P.J. Abdul Kalam Technological University, as per an order of the Chancellor, the then Governor of Kerala, dated 03/11/2022. That was a temporary appointment made by the Chancellor, invoking Section 13(7) of the A.P.J. Abdul Kalam Technological University Act, 2015, pending a regular appointment.



The statutory provision above permits the appointment of the Vice Chancellor for a period not exceeding six months in aggregate until the next person assumes the office of the Vice Chancellor. The State challenged the action of the Chancellor in W.P.(C) No. 35656/2022. A learned Single Judge of this Court upheld the appointment. In appeal, the matter came before a Division Bench comprising one among us (Justice A. Muhamed Mustaque). The Division Bench, vide judgment dated 16/02/2023, upheld the State Government's authority to recommend names of candidates to the Chancellor for making temporary appointments. However, the Division Bench did not interfere with the appointment of Dr. Ciza Thomas for the reason that it was an appointment made to a fortuitous post, and the Government has the authority to appoint anyone temporarily replacing her. Thereafter, Dr. Ciza Thomas was appointed as the Principal of the Government Engineering College, Thiruvananthapuram, and subsequently retired on 31/03/2023.

2. Immediately on retirement, Dr. Ciza Thomas was proceeded for disciplinary action alleging that she violated the



Government Service Conduct contemplated under Rule 48 of the Government Servants Conduct Rules, 1960, by assuming the office of the Vice Chancellor as per the order of the Tribunal. Dr. Ciza Thomas again approached the Tribunal in O.A. No. 435/2023. The Tribunal, by an interim order dated 17/03/2023 in O.A. No. 435/2023, directed Dr. Ciza Thomas to respond to the show cause notice dated 10/03/2023. The Tribunal, by its order dated 30/03/2023, disposed of the above Original Application without interfering with the show cause notice. Dr. Ciza Thomas again approached this Court by filing O.P. (KAT) No. 170/2023, challenging the order of the Tribunal in O.A. No. 435/2023 dated 30/03/2023. A Division Bench (comprising one among us - Justice A. Muhamed Mustaque) by judgment dated 20/10/2023, set aside the show cause notice holding that it is illegal and unsustainable. It is appropriate to refer to paragraph 8 of the above judgment.

"8. The appointment of the petitioner by the Chancellor, who is the Governor of Kerala, admittedly is by invoking the statutory provisions. Rule 48 of the UGC Regulations does not contemplate any violation of Government servant's conduct if such an appointment is made through the process of law. The rule only



contemplates taking up employment by the Government servant by his own volition. If proper interpretation of law is accorded as above, it can be seen that show cause notice is misconceived and legally unsustainable. The Government servant can only be proceeded for disciplinary action against violation of any existing rules or law. If the appointment is made invoking statutory provisions in another service, and not based on the individual application of the Government servant, that will not amount to violation of Rule 48. Based on the interpretation of Rule 48 as above, we are of the view that the show cause notice is unsustainable. Further, we note that in a challenge made by the Government, we had justified the appointment of the petitioner as the Vice Chancellor. The legality of her appointment cannot be reopened as inter party judgment would bind the Government as well. The learned Additional Advocate General Shri Asok M.Churian's argument is that it is not the legality of the appointment but the conduct of the petitioner which is the subject matter of the disciplinary action. We are afraid to accept this argument for the reason that the conduct of the petitioner in taking up the post of Vice Chancellor temporarily as explained earlier was not on her desire or application but made by the Chancellor invoking statutory provisions.

Thus, the original petition is allowed. The impugned order is set aside and we quash Annexure A8 before the Tribunal."

The State brought the matter before the Apex Court under SLP (Civil) Diary No. 5101/2024. The Apex Court dismissed the above Special Leave Petition on 05/03/2024, leaving open the question of law.

3. Even thereafter, Dr. Ciza Thomas was not paid her pensionary benefits. This was for the reason that the State appears to have filed



a review petition against the dismissed SLP (Civil) Dairy No. 5101/2024.

4. Thereafter, Dr. Ciza Thomas approached the Tribunal in O.A. No. 323/2025. The Tribunal, by an interim order dated 11/02/2025, directed that the provisional pension be effected along with arrears. It was submitted by the learned Government Pleader before the Tribunal that the arrears of provisional pension had been disbursed to Dr. Ciza Thomas on 05/03/2024. Thereafter, the Tribunal adjourned the matter on 10/03/2025 for the Government Pleader to file a reply statement.

5. Dr. Ciza Thomas approached this Court by filing the present O.P. (KAT). No. 186/2025 on 11/04/2025, invoking Article 227 of the Constitution, seeking a direction to disburse her regular pension, arrears, and all other terminal benefits.

6. Normally, this Court would be reluctant to entertain a challenge under Article 227 in respect of matters which have not been finally concluded by the Tribunal, unless the Tribunal commits a jurisdictional error during its proceedings or while passing orders.



We are also reluctant to invoke our powers under Article 227 as there is no manifest error committed by the Tribunal in this matter. Pursuant to our direction, a statement has been filed before this Court by the first respondent. In the statement, it is stated as follows:

“(2) It is respectfully submitted that the petitioner had worked in various colleges in her tenure of service. The Director of Technical Education is examining whether any liability has been incurred by the petitioner during her tenure of service. If any liability is found, that has to be assessed and quantified by the department within a period of 3 years. If no liability is found, the entire DCRG amount will be disbursed to the petitioner.

(3) It is respectfully submitted that the Government have already approached the Honourable Supreme Court by filing a Review Petition in SLP for reviewing the judgment for the reason that the question of law raised by the State was left open. Therefore, the State and its officials are awaiting an order in the Review Petition with respect of the question of law raised by the petitioners in the above SLP. The Registry of the Honourable Supreme Court has already allotted Diary Number No. 27777/2024. Awaiting the outcome of the Review Petition is also one of the reason for disbursing the pensionary benefits. If there is any delay occurred in disposing of the Review Petition filed by the State before the Honourable Supreme Court, the Department will disburse the remaining pensionary benefits to the petitioner in view of Note 3 Rule 3 of Part III KSR.”



7. From the statement, it is discernible that no contestable case is made by the State before the Tribunal on the reliefs sought by Dr. Ciza Thomas before the Tribunal. The only justification made by the first respondent for the delay in disbursement of pensionary benefits is on the fact that a review petition has been filed by the State before the Apex Court to review the dismissed SLP. It is also further contended that the State has a time period of three years to quantify any liability. Under Rule 3 of Part III KSR, the authority of the Government to withhold the pension is only in the circumstances enumerated therein. Rule 3 of Part III KSR specifically states that a pension can be withheld to enable the Government to recover losses incurred, pending departmental or judicial proceedings. It is impermissible to withhold a pension by the Government in any other circumstances. No departmental or judicial proceedings are pending against Dr. Ciza Thomas. We are astonished to see how the State is using its authority arbitrarily to deny legitimate dues of a retired government servant. When the authority of the Government becomes a wield to harass government servants, can the



constitutional court gloss over such arbitrary action to frustrate the legitimate entitlements?

8. We need to examine the power of this Court under Article 226 in proceedings initiated under Article 227. Is the constitutional court entitled to exercise power under Article 226 in a challenge made under Article 227? We shall advert to the law in this regard at the first instance.

9. Part XIV-A of the Constitution was inserted in the Constitution by the 42nd Amendment Act, 1976. Article 323A of Part XIV-A of the Constitution states that the Parliament may by law establish Administrative Tribunals to adjudicate disputes with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union and the State. The Parliament enacted the Administrative Tribunal Act, 1985, in tune with Article 323A of Part XIV-A of the Constitution. The statement of objectives of the Administrative Tribunal Act, 1985 clearly enunciates that the enactment aims to provide adjudication of disputes related to public service. Section 14 of the Administrative



Tribunal Act, 1985 refers to the jurisdiction and power of the Central Administrative Tribunal. Similar jurisdiction and power are conferred on the State Administrative Tribunals under Section 15 of the Act. Section 28 of the Act refers to exclusion of jurisdiction of the courts, except the Supreme Court under Article 136 of the Constitution, from exercising jurisdiction and powers over the Tribunal. The Apex Court in **S.P. Sampath Kumar v. Union of India, [(1987) 1 SCC 124]** held that an Administrative Tribunal serves as an alternative institutional mechanism, but the Supreme Court would continue to retain its power of judicial review over the decisions of such Tribunals. The right to appeal to the Supreme Court under Article 136 against Tribunal decisions was also preserved. However, regarding the jurisdiction of High Courts, the Supreme Court adopted a restrictive approach, ruling that High Courts do not have the authority to exercise judicial review in these cases.

10. Thereafter, a Constitutional Bench of the Apex Court in **L. Chandrakumar v. Union of India, [(1997) 3 SCC 261]** examined the law laid down in **Sampath Kumar's case** (supra) and held that



the power of judicial review is an essential and basic feature of the Constitution. Further, held that the power of the High Court under Article 226/227 is a basic feature of the Constitution and exclusion of the jurisdiction of High Court and Supreme Court under Articles 226/227 and 32 of the Constitution are unconstitutional, and all decisions of the Tribunal will be subject to the scrutiny of the Division Bench of the High Court, and the Tribunal will act as a Court of first instance in respect of area of law for which it has been constituted.

11. As we noted earlier, we are not looking into this matter from the perspective of the power conferred on the Administrative Tribunal. If we were to look at the matter of secondary judicial review, we would have refrained from entertaining this matter and deciding this issue, as the matter is still pending before the Tribunal. From the facts that loom large in this case, we absolutely find that it is not worth a contest for the State to deny Dr. Ciza Thomas her pension and all other benefits. On the face of the records of the Court, if the constitutional court is able to form an opinion that the State is wielding its power and authority to oppress and harass a



government servant, the Court shall not refrain from using its power under Article 226 of the Constitution even though the challenge is made under Article 227 of the Constitution. It is apposite to refer the judgment of the Apex Court in **Ajay Hasia v. Khalid Mujib Sehravardi, [(1981) 1 SCC 722]** wherein it was held as follows:

“16 ... Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an “authority” under Article 12, Article 14 immediately springs into action and strikes down such State action. In fact, the concept of reasonableness and non-arbitrariness pervades the entire constitutional scheme and is a golden thread which runs through the whole of the fabric of the Constitution.”

12. The constitutional courts are the protectors of fundamental rights, and the constitutional courts alone have the exclusive authority and power to enforce the fundamental rights. The power of the Tribunal, being the nature of a review of the actions impugned, has its own limitations while deciding a matter of this nature where no substantial service dispute is involved. The Tribunal is an authority to decide on service disputes by a mechanism of judicial review, including the violation of fundamental rights. Therefore, it can also decide on disputes related to the validity of statutory provisions and



rules of service, and also on questions of violation of the fundamental rights of the government servant. However, under the Constitution, the enforcement of fundamental rights stands on a different perspective. Unlike other Courts and Tribunals, which are competent to decide on a dispute concerning the violation of fundamental rights, they have no power or authority to enforce the fundamental rights. The enforcement of fundamental rights refers to the process by which constitutional courts, such as the High Courts and the Supreme Court, ensure that the rights guaranteed to individuals under the Constitution are upheld and protected. When a fundamental right is infringed or violated, whether by the State or any of its agencies, the aggrieved individual has the right to approach these courts for enforcement. In such cases, the courts exercise their constitutional powers, particularly under Article 32 (Supreme Court) and Article 226 (High Courts) of the Constitution, to issue appropriate writs or directions compelling the State to comply with the constitutional mandates. This judicial mechanism acts as a vital check on arbitrary or unlawful actions by public authorities, thereby safeguarding the



values embedded in the Constitution. The Government, as well as government servants, are bound by the rule of law. The jurisdiction and authority of the Kerala Administrative Tribunal under Rule 15 of the Kerala Administrative Tribunal (Procedure) Rules, 2010, is to decide a subject touching upon service or matters concerning service in the State. In a matter where arbitrariness is manifest and service rules are taken as a shield by the Government, constitutional courts are not restrained from invoking their power under Article 226, as they are protectors of fundamental rights. The enforcement of a fundamental right is not akin to the exercise of judicial power to adjudicate a dispute (lis) through the conventional mechanism of review. Rather, it is a distinct constitutional function wherein the court examines whether there has been a violation of a guaranteed right, and if so, provides appropriate remedial measures. This process is not centred on resolving disputes in the traditional adversarial sense, but is primarily concerned with ensuring that the actions of the State conform to the constitutional norms.

13. This Court in **Indian Broadcasting And Digital**



Foundation v. Telecom Regulatory Authority of India, [2024 KLT OnLine 2626] held as follows:

"14. We cannot agree with Mr. Sibal's arguments that TDSAT is incompetent to address challenges based on the violation of fundamental rights. **There is a fundamental distinction between enforcing fundamental rights and exercising judicial review concerning those rights. In the former case, only constitutional courts have the authority to enforce fundamental rights. However, regarding judicial review based on fundamental rights parameters, any authority with review power can determine whether a decision or order aligns with fundamental rights or applicable law.** Therefore, we conclude that the challenge to the regulation must fail in light of the binding judgment. We grant the appellants the liberty to challenge the Tariff Order before TDSAT. The learned Senior Counsel, Shri Santhosh Mathew, representing appellants 4 and 5, requested that the interim order issued by this Court be maintained to allow the appellants to approach TDSAT should any adverse orders arise from this Court. Taking note of the request as above, we order that coercive steps shall be deferred for a period of two weeks to enable the appellants to invoke alternate remedy." *(emphasis supplied)*

14. In matters like this arising under Article 227, the constitutional courts will not hold any enquiry on the entitlement of government servants under the service law, but rather focus on the action of the State violating fundamental rights. We draw our reasoning on exercising power under Article 226 on the following



precedents in a matter arising out of a challenge under Article 227.

14(1). The Apex Court in **Surya Dev Rai v. Ram Chander Rai, [(2003) 6 SCC 675]** held as follows:

"39. Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a straight-jacket formula or rigid rules. Not less than often, the High Court would be faced with a dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where "a stitch in time would save nine". At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the judge."

(emphasis supplied)

14(2). The Apex Court in **MMTC Ltd. v. CCT, [(2009) 1 SCC 8]** held as follows:

"14. In Surya Dev Rai v. Ram Chander Rai [(2003) 6 SCC 675 : AIR 2003 SC 3044] after referring to the decisions in Custodian v. Khan Saheb Abdul Shukoor



[AIR 1961 SC 1087 : (1961) 3 SCR 855] , Nagendra Nath Bora v. Commr. of Hills Division [AIR 1958 SC 398] , T.C. Basappa v. T. Nagappa [AIR 1954 SC 440] and Rupa Ashok Hurra v. Ashok Hurra [(2002) 4 SCC 388 : AIR 2002 SC 1771], this Court held at paras 17 [Ed. : Para 17 below is from Jaidev Siddha (Dr.) v. Jai Prakash Siddha, (2007) 3 MPLJ 595, while paras 19 and 25 are from Surya Dev Rai case, (2003) 6 SCC 675.] , 19 and 25 as follows:

“17. From the aforesaid enunciation of law it is quite vivid and luminescent that the pleadings in the writ petition, nature of the order passed by the learned Single Judge, character and the contour of the order, directions issued, nomenclature given, the jurisdictional prospective (sic perspective) in the constitutional context are to be perceived. It cannot be said in a hypertechnical manner that an order passed in a writ petition, if there is assail to the order emerging from the inferior tribunal or subordinate courts has to be treated all the time for all purposes to be under Article 227 of the Constitution of India. Phraseology used in exercise of original jurisdiction under Article 226 of the Constitution in Section 2 of the Act cannot be given a restricted and constricted meaning because an order passed in a writ petition can tantamount to an order under Article 226 or 227 of the Constitution of India and it would depend upon the real nature of the order passed by the learned Single Judge. To elaborate; whether the learned Single Judge has exercised his jurisdiction under Article 226 or under Article 227 or both would depend upon various aspects and many a facet as has been emphasised in the aforequoted decisions of the Apex Court. The pleadings, as has been indicated hereinabove, also assume immense significance. As has been held in Surya Dev Rai [(2003) 6 SCC 675 : AIR 2003 SC 3044] a writ of certiorari can be issued under Article 226 of the Constitution against an order of a tribunal or an order passed by the



subordinate court. In quintessentiality, it cannot be put in a straitjacket formula that any order of the learned Single Judge that deals with an order arising from an inferior tribunal or the subordinate court is an order under Article 227 of the Constitution of India and not an order under Article 226 of the Constitution. It would not be an overemphasis to state that an order in a writ petition can fit into the subtle contour of Articles 226 and 227 of the Constitution in a composite manner and they can coincide, coexist, overlap, imbricate. In this context it is apt to note that there may be cases where the learned Single Judge may feel disposed or inclined to issue a writ to do full and complete justice because it is to be borne in mind that Article 226 of the Constitution is fundamentally a repository and reservoir of justice based on equity and good conscience. It will depend upon factual matrix of the case.” (MPLJ p. 606) ..”

(emphasis supplied)

14(3). In **Jogendrasinhji Vijaysinghji v. State of Gujarat, [(2015) 9 SCC 1]** the Apex Court held as follows:

“3. At the outset, we may state that though eight questions have been drawn up by the special Bench yet we are disposed to think that they can really be put into three basic compartments, namely:

(i) In what context the phrase ‘original jurisdiction’ appearing in Clause 15 of the Letters Patents should be construed, that is, by taking into consideration the plain meaning of the same as the Court’s power to hear and decide the matter before any other court and review the same; or should it be construed in the context with the power of the Court to issue a writ under Article 226 of the Constitution of India, which is always original.



(ii) Assuming the words "to issue to any person or authority" as contained in Article 226 of the Constitution are interpreted so as to include the tribunal or the Court, then in such circumstances, would it be the correct proposition of law to say that appellate tribunal is not amenable to a writ of certiorari and the only remedy available to the litigant to challenge the order passed by an appellate tribunal is under Article 227 of the Constitution and, ancillary one, when a petition assails an order of the tribunal, be it a tribunal of first instance or an appellate tribunal, should it be necessarily treated as a petition under Article 226 of the Constitution of India in every case or it would depend upon facts of each case, more particularly the grounds of challenge and the nature of order passed.

(iii) Whether in a petition for issue of a writ of Certiorari under Article 227 of the Constitution of India, the tribunal/Court whose order is impugned in a petition must be a party to the petition so that the writ sought from the Court can be issued against the tribunal/Court, but if the petition is for the relief under Article 227 only, then the tribunal/Court whose order is under assail need not be a party-respondent on the reasoning that by entertaining a petition under Article 227 of the Constitution, the High Court exercises its power of superintendence which is analogous to the revisional jurisdiction.

4. The special bench, as is evincible from the judgment impugned, has delved into the questions framed by it, if we permit ourselves to say so, at great length and recorded its conclusions in seriatum. It is necessary to reproduce the relevant conclusions, which are as follows:-

"(iii) When a writ is issued under Article 226 of the Constitution, it is issued in exercise of its original jurisdiction whether against the Tribunal or inferior Court or administrative authority.



(iv) The power exercised under Article 226 of the Constitution is in exercise of original jurisdiction and not supervisory jurisdiction.

xxx xxx xxx

(vii) A writ of certiorari lies in appropriate cases against the order of Tribunal or Court subordinate to the High Court where such a Court, or Tribunal acts not only as an authority of first instance but even if such a Court or Tribunal acts as an appellate or revisional authority provided a case for a writ of certiorari is made out to the satisfaction of the Court concerned. Thus, if an appellate or revisional order of the Court or Tribunal, subordinate to a High Court, suffers from a patent error of law or jurisdiction, the same could be challenged before the High Court with the aid of Article 226 of the Constitution and it could not be said that such an appellate or revisional order of the Court or Tribunal could be challenged with the aid of Article 227 alone.

(emphasis supplied)

15. Article 14 of the Constitution safeguards citizens from discrimination and embodies the principle of the rule of law, which ensures equal legal protection for all. Determining arbitrariness involves applying the legal standards set by the Supreme Court, from the case of **E.P. Royappa** (supra) onwards. These judgments emphasise that equality must be observed in both positive and negative aspects to avoid arbitrariness. In every instance, the law mandates fairness and equal treatment. The State wields significant



power that can deeply affect the lives of its citizens. This power gives rise to a jural relationship between the State and its subjects, where the exercise of power must be fair and constitutionally compliant, creating corresponding responsibilities or liabilities for individuals. When State action is guided by extraneous considerations that are nevertheless deemed legitimate under the law, such actions must still align with Article 14. The context in which the State exercises its authority becomes crucial, especially when courts evaluate violations or the enforcement of fundamental rights. In the specific context of a government servant, statutory rules play a vital role in defining the power–liability relationship between the Government and the employee. If the Government exercises power beyond the scope of this established legal relationship, that is, if the action cannot be traced to any valid authority under the applicable rules, then such action is arbitrary and violates Article 14. In cases involving pension entitlements, the court must first examine the relevant rules governing pensions. These rules clearly state that pension is not a matter of right, but is subject to procedures, such as those outlined



in Part III of the Kerala Service Rules (KSR). If the State exercises power outside of these procedures and without legal backing, it would amount to unequal treatment, thereby violating the guarantee of equality under Article 14.

16. In the above background, we are exercising our power under Article 226 of the Constitution for the following reasons, holding that the Government has violated the fundamental rights of Dr. Ciza Thomas, who retired on 31/03/2023:

No disciplinary action is pending against her. The Disciplinary proceedings against her have been quashed and set aside by this Court. No judicial proceedings are pending against her. No one has a case against her that the liability is quantified and a liability certificate has been issued. Rule 3 of Part III, KSR enables the Government to withhold pension only when departmental proceedings or judicial proceedings are pending. In the absence of any pending departmental or judicial proceedings, the Government cannot withhold pensionary benefits of Dr. Ciza Thomas. We note that the Government exercised its authority and power in flagrant



violation of her fundamental rights and to harass her for taking up the office of the Vice Chancellor at the instance of the Chancellor, the then Governor. This Court cannot ignore the gross injustice meted out to such a distinguished government servant; we will have to protect her pensionary right, which is a property right under the Constitution, and it cannot be denied as such unless by a procedure established by law.

In view of the above, we direct the official respondents to release the entire terminal benefits due to her within two weeks from today. On the question related to interest, the petitioner can be relegated to the Tribunal and the Tribunal can decide.

The original petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

Sd/-

JOHNSON JOHN, JUDGE



APPENDIX OF OP(KAT) 186/2025

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE NOTIFICATION NO. GS6-2838/2022 DATED 3.11.2022 ISSUED FROM THE GOVERNOR'S SECRETARIAT WITH COVERING LETTER DATED 03.11.2022
Annexure A2	TRUE COPY OF THE E-MAIL DATED 4.11.2022 SENT BY THE DIRECTOR TECHNICAL EDUCATION TO THE APPLICANT
Annexure A3	TRUE COPY OF THE GOVERNMENT ORDER BEARING G.O. (RT) NO. 271/2023/H. EDN. DATED 28.02.2023
Annexure A4	TRUE COPY OF THE INTERIM ORDER DATED 01.03.2023 IN O.A. NO. 339/2023 OF THE HON'BLE TRIBUNAL
Annexure A5	TRUE COPY OF GOVERNMENT ORDER G.O. (RT) NO. 320/2023/H.EDN DATED 06.03.2023
Annexure A6	TRUE COPY OF THE JUDGMENT DATED 16.2.2023 IN W.A. NO. 1847/2022 OF THE HONOURABLE HIGH COURT OF KERALA
Annexure A7	TRUE COPY OF THE SHOW CAUSE NOTICE NO. HEDN-G1/181/2022-HEDN DATED 10.3.2023 ISSUED BY THE 1ST RESPONDENT
Annexure A8	TRUE COPY OF THE INTERIM ORDER DATED 17.3.2023 IN O.A. NO. 435/2023 OF THE HON'BLE TRIBUNAL
Annexure A9	TRUE COPY OF THE ORDER DATED 30.03.2023 IN O.A. NO. 435/2023 PASSED BY THE HON'BLE TRIBUNAL.
Annexure A10	TRUE COPY OF THE NOTICE NO. HEDN-G1/181/2022-HEDN DATED 30.3.2023 ISSUED BY THE 1ST RESPONDENT
Annexure A11	TRUE COPY OF THE LETTER NO. KTU/VCO/ 2023/1932 DATED 31.3.2023 ISSUED BY THE APPLICANT TO THE PRINCIPAL SECRETARY
Annexure A12	TRUE COPY OF THE PROCEEDINGS NO. E2/466/22/G.E.C.B.H DATED 31.3.2023 ISSUED FROM THE GOVERNMENT ENGINEERING COLLEGE
Annexure A13	TRUE COPY OF THE CHARGE MEMO AND STATEMENT OF ALLEGATIONS DATED NIL ISSUED FROM THE HIGHER EDUCATION DEPARTMENT
Annexure A14	TRUE COPY OF JUDGMENT IN O.P (KAT) NO. 170/2023 DATED 20.10.2023 PASSED BY THE HON'BLE HIGH COURT OF KERALA
Annexure A15	COPY OF THE ORDER DATED 05.03.2024 IN SLP (DIARY) NO. 5101/2024 PASSED BY THE HON'BLE SUPREME COURT OF INDIA
Annexure A16	WAS SERVED WITH AN ORDER SANCTIONING PROVISIONAL



OP(KAT) NO. 186 OF 2025

-:26:-

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	PENSION. TRUE COPY OF THE ORDER NO. P1/12380/23/DTE DATED 22.8.2023 ISSUED BY THE 2ND RESPONDENT WITH ITS TYPED COPY
Annexure A17	TRUE COPY OF THE COMMUNICATION NO. P1/12380/23/DTE DATED 22.8.2023 ISSUED BY THE 2ND RESPONDENT
Annexure A18	TRUE COPY OF THE COMMUNICATION DATED 28.10.2023 SENT BY THE APPLICANT
Annexure A19	TRUE COPY OF THE LETTER NO. G1/105/2023/HEDN DATED 13.2.2024 ISSUED BY THE 1ST RESPONDENT
Exhibit P1	TRUE COPY OF THE O.A NO. 323/2025 ALONG WITH ANNEXURES FILED BEFORE THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM ON 05.02.2025.
Exhibit P2	TRUE COPY OF THE INTERIM ORDER DATED 11.02.2025 IN O.A NO.323/2025 PASSED BY THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM
Exhibit P3	TRUE COPY OF THE INTERIM ORDER DATED 10.03.2025 IN O.A 323/2025 PASSED BY THE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM