IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 3RD DAY OF FEBRUARY 2016/14TH MAGHA, 1937

WP(C).NO. 31450 OF 2015 (E)

PETITIONER:

DR.KN.BALAGOPALAN KARTHA, AGED 59 YEARS,
S/O.K.N.KUNJUNNI KARTHA, KARUVAMKAL MADAM,
VAZHOOR.P.O., KOTTAYAM, PIN CODE-686 504,
NOW RESIDING AT 'BHAVANA', C.C.NO.72/1370, KNERA-1
ASOKA ROAD, KALOOR.P.O., KOCHI-682 017.

BY ADV. SRI.C.CHANDRASEKHARAN

RESPONDENT(S):

1. **THE VICE CHANCELLOR,**
   UNIVERSITY OF CALICUT, CALICUT UNIVERSITY.P.O.,
   PIN-673 635, MALAPPURAM DISTRICT.

2. **THE REGISTRAR,**
   UNIVERSITY OF CALICUT, CALICUT UNIVERSITY.P.O.,
   PIN CODE-673 635, MALAPPURAM DISTRICT.

3. **THE DIRECTOR OF RESEARCH UNIVERSITY OF CALICUT,**
   CALICUT UNIVERSITY.P.O., MALAPPURAM DISTRICT
   PIN-673 635.

R1,R2 BY ADV. SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-02-2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 31450 OF 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1- TRUE COPY OF THE CERTIFICATE OF DOCTOR OF PHILOSOPHY DATED 19.11.2002 IN LIFE SCIENCE ISSUED BY UNIVERSITY OF CALICUT TO THE PETITIONER.

EXT.P2- TRUE COPY OF THE LETTER DATED 4.6.2012 ISSUED FROM THE MEDICAL DIRECTOR, AMRITHA INSTITUTE OF MEDICAL SCIENCES TO THE PETITIONER.

EXT.P3- TRUE COPY OF THE REPRESENTATION DATED 25.2.2012 SUBMITTED BY THE PETITIONER TO THE VICE CHANCELLOR, CALICUT UNIVERSITY.

EXT.P4- TRUE COPY OF THE MEMO DATED 24.7.2014 ISSUED BY THE JOINT REGISTRAR, DIRECTORATE OF RESEARCH, UNIVERSITY OF CALICUT.

EXT.P5- TRUE COPY OF THE ORDER DATED 7.1.2013 ISSUED TO MR.M.P.BASHEER, RESEARCH SCHOLAR IN PHYSIOLOGY, DEPT. OF LIFE SCIENCES BY THE DIRECTORATE OF RESEARCH, UNIVERSITY OF CALICUT.

EXT.P6- TRUE COPY OF THE MINUTES OF THE MEETING OF THE RESEARCH C COUNCIL ON 27.9.2012, UNIVERSITY OF CALICUT.

EXT.P7- TRUE COPY OF THE LETTER DATED 18.10.2012 ISSUED BY DR.E.SREEKUMARAN, READER IN PHYSIOLOGY & CHAIRMAN OF THE BOARD OF STUDIES, PHYSIOLOGY TO THE DIRECTOR, DIRECTORATE OF RESEARCH, UNIVERSITY OF CALICUT.

EXT.P8- TRUE COPY OF THE LETTER DATED 9.8.2012 BY THE PRINCIPAL, AMRITHA INSTITUTE OF MEDICAL SCIENCES.

EXT.P9- TRUE COPY OF THE MEMO DATED 3.11.2012 ISSUED BY PROFESSOR V.RAJAGOPALAN, CONTROLLER OF EXAMINATIONS, UNIVERSITY OF CALICUT WITH COPY TO THE PETITIONER.

EXT.P10- TRUE COPY OF THE LETTER DATED 18.5.2012 ISSUED BY THE CONTROLLER OF EXAMINATIONS TO THE PETITIONER.

EXT.P11- TRUE COPY OF THE JUDGMENT DATED 22.7.2015 IN W.P[C] NO.20610/2015(A) OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P12- TRUE COPY OF THE MEMO DATED 15.9.2015 ISSUED BY ASSISTANT REGISTRAR, ADMINISTRATION(DIRECTORATE OF RESEARCH) UNIVERSITY OF CALICUT.

RESPONDENT(S)' EXHIBITS :NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

= = = = = = = = = = = = = = = = = = =

W.P. (C) No. 31450 of 2015

- -

Dated this the 3rd day of February, 2016

J U D G M E N T

The petitioner is a Doctorate (Ph.D. Degree) Degree holder in Life Science under the Faculty of Science, as per Ext.P1. According to the petitioner, he had pursued his research in Neurophysiology and he is fully eligible to get his faculty changed from Science to Medicine. The petitioner had submitted Ext.P3 representation, for changing his Original Doctorate Degree Certificate in Physiology, under the Faculty of Medicine on 25.02.2012. A similarly situated person like the petitioner had already obtained Ext.P5 order, from the University of Calicut, changing his Doctorate Degree from the

Faculty of Science to Medicine, basing on his later application dated 22.08.2012. But, the application filed by the petitioner was not considered.

2. Feeling aggrieved, the petitioner filed writ petition No.20640 of 2015, before this Court and this Court vide Ext.P11 judgment, directed the respondents to consider Ext.P3 representation, in that writ petition, on merits, after hearing the petitioner. But, the 1st respondent rejected Ext.P3 representation, without passing a speaking order, on merits. This is the grievance highlighted in this writ petition. It is under this circumstance, the petitioner has filed this writ petition with a prayer, to issue a writ of certiorari, calling for all records leading to Ext.P12 and to quash the same and issue a writ of mandamus or other order or direction, directing the respondents, directing to change the Faculty of petitioner's Doctorate Degree

from Science to Medicine from Life Science to Physiology, by reconsidering Ext.P12 order.

3. Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

4. Learned counsel for the petitioner advanced arguments assailing the findings in Ext.P12. The main grievance of the petitioner is that even though, this Court directed the respondent to consider the grievance of the petitioner and pass orders, accordingly, the respondent has not applied his mind on the contentions raised by the petitioner. It is also contended that Ext.P11 shows that a similarly situated person, who had made the same request, as that of the petitioner's request, was granted with the same relief by the University. But, the petitioner was discriminated, by not allowing the same relief that was allowed to the

other person. In short, according to the petitioner, petitioner's request was rejected by a non-speaking order.

5. *Per contra,* the learned standing counsel appearing for the respondent advanced arguments, to justify the rejection of the petitioner's request. According to the learned standing counsel, the petitioner is not similarly situated, as that of the person, whose degree was changed on his request. Since, the request of the petitioner was against the statute and regulations of the University, it was rejected. Thus, the rejection was made on sound reasonings, according to the learned standing counsel.

6. Going by Ext.P12, it is seen that the reasoning, whereby the petitioner's request was rejected, is confined to four lines, which reads as follows:

> *"On seeing that the request of the petitioner for the change in the PhD Degree awarded to him, in the year 1991, by changing the subject from Life Science in Science Faculty to the subject of Physiology in the Faculty of Medicine is without any merit and not acceptable as per the Statutes and rules and regulations of the University, the Vice-Chancellor ordered to reject the request"*

7. P*rima facie,* I find that the respondent has not applied his mind properly, on the matter in issue involved in this writ petition. Even though, this Court directed the respondent, to consider the request, the respondent has not specified the rules and regulations of the University, under which the request of the petitioner was not allowed. Reasoning is the soul of a statutory order and an order, without reasoning is not a statutory order in the eye of law. The respondent ought to have remembered that while considering the request, the respondent was discharging the duty under the statute and the order to be passed is an appealable

order also. In the above view of the matter, this Court is not satisfied with Ext.P12 order.

8. Consequently, Ext.P12 order will stand set aside and the matter is remitted back to the respondent. The respondent shall pass an order afresh, assigning the reasons, for the decision also, within one month from the date of receipt of a copy of this judgment.

This writ petition is disposed of accordingly.

Sd/-

K. HARILAL,
JUDGE

DST

//True copy//

P.A. To Judge