

## SUIT-TIME-LIMIT

No.U2.WP(C) 23868/12

Office of the Advocate General,  
Ernakulam,  
Kochi-682 031.Phone { 2393844, 2395050, 2395052,  
2395078, 2395096

Fax: 0484 2394674

Date: 19-11-2012

From

The Advocate General,  
Kerala.

To

The Principal Secretary to Government,  
Higher Education (F) Department,  
Secretariat, ThiruvananthapuramSub.— WP(C) 23868/12 of High Court filed by Anju Sosan George and others –  
forwarding copy of judgement – reg.

Ref.— Government Lr.No.37061/F3/12/H.Edn.dtd. 20.10.2012

Sir,

I request you/Government that immediate action as per item number noted below may be taken:

- (1) A complete statement of facts answering, para by para, all the allegations contained in the petition and affidavit in the above case may be forwarded to this office along with connected records urgently. A counter-affidavit has to be filed in the case before..... A copy of the petition and affidavit is enclosed herewith. Please acknowledge receipt.
- (2) Two ledger copies and four copies of the counter-affidavit in the above case are enclosed. The two ledger copies and three copies of the same may kindly be returned to this office urgently/on or before..... duly filled in and signed by a duly authorised officer not below the rank of an Under Secretary/a duly authorised officer/the respondent concerned, at the bottom of all the pages and above the word 'deponent' on the last page. Corrections if any, have to be initialled and the number of such corrections noted at the left-hand bottom corner of each page. The signature on the last page has to be attested by a Gazetted Officer below the sentence "solemnly affirmed....." with the name and designation of the officer attesting. Initials, signature and attestation are to be made only in blue/black ink.
- (3) A copy of the Reply Affidavit/Revision Petition/Amendment Petition/Appeal Memorandum in the above case is enclosed immediate instructions may be furnished to this office in the matter.
- (4) A photocopy of the judgment in the above case is enclosed. It is requested that further action, if any, on the basis of the judgment may be taken. In case further action through Court is considered necessary, instructions in that behalf may be sent to this office with connected records before.....

Copy to:

1. The Principal Secretary to Government,  
Finance Department, Secretariat, Thiruvananthapuram
2. The Director of Collegiate Education, Thiruvananthapuram
3. The Director of Treasuries, Thiruvananthapuram
4. The Deputy Director of Collegiate Education, Kottayam.

Enclt on EG-15231/12 dated 26.12.12

Yours faithfully,

Sd/-

P.K. Remani,

Under Secretary

For Advocate General  
Approved for Issue

Section Officer

kss/27.11

Copy forwarded to all Treasury officers for information

For Director of Treasuries

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.R. RAMACHANDRA MENON

FRIDAY, THE 19TH DAY OF OCTOBER 2012/27TH ASWINA 1934

WP(C).No. 23868 of 2012 (G)  
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PLAINTIFF(S) :

1. ANJU SOSAN GEORGE,, AGED 29 YEARS  
D/O GEROGUE KURIAN PURAMATHO B VILLA, KUTTAPUZHA PO  
ASSISTANT PROFESSOR, CMS COLLEGE, KOTTAYAM.
2. DR. VARGHESE C. JOSHUA,  
S/O C.K. JOSHUA, CHAWKAYIL ASAN VILLA  
KOLLAKADAVU (PO), ALLEPPY DISTRICT  
ASSISTANT PROFESSOR, C M S COLLEGE, KOTTAYAM.
3. SREEJA K.,  
D/O P.R. CHANDRASEKHARAN NAIR, LEKSHMI VILASAM  
CHINGAVANAM PO, KOTTAYAM  
ASSISTANT PROFESSOR CMS COLLEGE KOTTAYAM.
4. AMRUTHA RINU ABRAHAM,  
D/O A M ABRAHAM, PANCHAYIL HOUSE, ETTUMANOOR P.O.  
KOTTAYAM, ASSISTANT PROFESSOR, CMS COLLEGE  
KOTTAYAM.
5. N.HARI,, AGED 34 YEARS  
S/O R NARAYANA IYER, SREE CHITHIRA, EVOOR  
ALAPPUZHA DISTRICT, ASSISTANT PROFESSOR, CMS COLLEGE  
KOTTAYAM.
6. ROGIMON P THOMAS,  
S/O P THOMAS OOMMEN, PLAMOOTTIL HOUSE, OLISSA PO  
KOTTAYAM, ASSISTANT PROFESSOR, CMS COLLEGE  
KOTTAYAM.

BY ADVS. SRI.G.SREEKUMAR (CHELUR)  
SRI.K.RAVI (PARIYARATH)

RESPONDENT(S) :

1. THE GOVERNMENT OF KERALA,  
REPRESENTED ITS PRINCIPAL SECRETARY TO GOVERNMENT  
(FINANCE) THIRUVANANTHAPURAM.695 001.
2. THE HIGHER EDUCATION SECRETARY,  
THIRUVANANTHAPURAM-695 001.
3. THE DIRECTOR OF COLLEGIATE EDUCATION,  
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 001.

4. THE DIRECTOR OF TREASURIES,  
THIRUVANANHAPURAM-695 001.
5. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,  
KOTTAYAM - 686 001.
6. THE TREASURY OFFICER,  
KOTTAYAM-686 001.
7. THE PRINCIPAL,  
CMS COLLEGE, KOTTAYAM.686 001.

BY SR. GOVERNMENT PLEADER SMT. M. J. RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
19-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**P.R. RAMACHANDRA MENON, J.**

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**W.P.(C). No. 23868 of 2012**  
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**Dated this the 19<sup>th</sup> day of October, 2012**

**JUDGMENT**

The issue involved in this case is whether the respondents are justified in depositing the entire D.A arrears and such other amounts payable to the petitioners directly to the P.F. account of the petitioners, without causing deduction of Income Tax, in terms of Section 192 of the Income Tax Act.

2. The case of the petitioner as put forth by the learned counsel is that, the amounts due to the petitioner under the concerned heads are being directly deposited to the GPF account without deducting the income tax payable. This makes it obligatory for the petitioners to satisfy Income Tax from other alternate source, which virtually affects the day to day life of the petitioners. The case of the petitioners is that, by virtue of the relevant provisions of law, it is obligatory on the part of the respondent to deduct the Income Tax amount as well and only the balance need to be deposited in the GPF account. Exactly similar question arose for consideration before this Court on earlier occasions and appropriate directions have been issued vide Exts. P2 to P4 judgments.

3. Heard the learned Government Pleader as well.

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4. After going through the pleadings and proceedings, this Court finds no reason to deviate from the view already taken by this Court vide Exts. P2 to P4. In the said circumstance, there will be a direction to the respondents to deposit the amount in the P.F accounts of the petitioners, after deducting the Income Tax at source, in terms of Section 192 of the Income Tax Act, so as to relieve the petitioners from the burden of finding money for payment of income tax from other source. Whenever the bills are prepared in respect of the arrear payment, the Principal of the institution should also see that, the income tax payable in respect of such amounts is shown separately and that, arrangements are made for remittance of the same in the Treasury, so as to meet the requirement of payment of income tax. Appropriate steps shall be pursued by the Treasury Officer as well, so as to give effect to the verdict as above and the balance amount alone shall be credited in the GPF account of the petitioners.

Writ petition is disposed of in the above terms.

  
**P.R. RAMACHANDRA MENON,  
JUDGE.**

Kp/-

APPENDIX

PLAINTIFFER(S) EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE COMMUNICATION OF THE ACCOUNTS OFFICER  
DATED 24.7.2010.

EXHIBIT P2: A TRUE COPY OF THE JUDGMENT IN WPC NO.4975/05 DATED 23.2.05.

EXHIBIT P3: A TRUE COPY OF THE JUDGMENT IN WPC NO.5706/07 DATED 1.3.07  
ON THE FILE OF THIS HON'BLE COURT.

EXHIBIT P4: A TRUE COPY OF THE JUDGMENT IN WPC NO.18059/08 DATED  
23.6.08.

RESPONDENTS' EXHIBITS:

NIL

//TRUE COPY//

P.A. TO JUDGE

True  
Examiner