

(2010) 05 KL CK 0102

In the High Court Of Kerala

Case No : W.A. No. 750 of 2010 and W.P. (C) No. 9466 of 2010

State of Kerala

APPELLANT

Vs

Rajamony

RESPONDENT

Date of Decision : 26-05-2010

Acts Referred:

Kerala Service Rules, 1958 — Rule 60

Citation : (2010) 3 KLT 469

Hon'ble Judges : P.S. Gopinathan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : Manoj, Government Pleader, for the Appellant; V.A. Mohammed, for the Respondent

Judgement

C.N. Ramachandran Nair, J.—The petitioner in the W.P.(C). who is the respondent in the Writ Appeal is a member of teaching staff of the Physical Education College under the Calicut University at Kozhikode. He was born on 2.5.1954 and since 55 is the age of superannuation, he would have retired on 31.5.2009. However, according to the petitioner, under Rule 60(c) of Part I, K.S.R. read with Ext.P3 Government Order the petitioner is entitled to continue till the end of the academic year beyond 31.3.2010. The contention of the Government Pleader is that based on amendment to Rule 60(c) the petitioner is entitled to continue upto 31.3.2010. However, the contention of the petitioner is that by virtue of Ext.P3, the benefit of R,60(c) will be such that he can continue upto 31st July, 2010 which is the end of the academic year.

2. In the first place, Government Pleader contended that academic year as defined under the University Statute is from 1st June to 31st March of the year and so much so, the petitioner is bound to retire on 31st March, 2010. We are unable to accept the contention of the petitioner that first he should be given the benefit of extension under Ext.P3 Government Order to 31st March, 2010 and thereafter to further extend his service upto 31st July, 2010. Even if the petitioner's case that academic year for Physical Education course actually closes

on 31st July, 2010 is true, then petitioner's retirement by virtue of Rule 60 (c) would have been on 31st July, 2009 and only by virtue of the amendment introduced to Rule 60(c) he gets an extension upto 31st March, 2010. In other words, the unification of the date of retirement achieved through Ext.P3 order is already incorporated for teaching staff of colleges by amendment to Rule 60(c). Even going by petitioner's contention that the academic year ends for his institution on 31st July, 2009, he would have retired under the unamended provisions of Rule 60(c) on 31st July, 2009 and after the amendment, his retirement will be on 31st March, 2010. Ext.P3 issued by the Government making uniform retirement date in the State on 31st March of the year coincides with Rule 60(c) after its amendment. We, therefore, do not find any merit in the contention of the petitioner that he is entitled to continue beyond 31st March, 2010. Consequently Writ Appeal filed against interim order permitting the petitioner to continue is allowed and the Writ Petition is dismissed. However we make it clear that whatever is the work done by the petitioner after 31st March, 2010, does not get invalidated on account of this judgment. However, dispensing with the delay in submitting pension papers, petitioner should be given his terminal benefits and pension also should be sanctioned without any delay.