

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5907 OF 2008

(Arising out of SLP(C) No. 26243 of 2005)

State of kerala & Anr.

.....Appellants

Versus

Prof. D. Gopalakrishna Pillai & Ors.

...Respondents

(With Civil Appeal No.5908 of 2008 @ SLP (C) No.6257/2007)

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in these appeals is to the judgment of a Division Bench of the Kerala High Court dismissing the appeal filed by the State. Before the High Court it was contended that the decision of the full Bench of the High Court in Accountant General v. Kunjamma [2003 (3) KLT 345] relied on by learned Single Judge was in appeal before this Court and an order of stay of the said Court had been passed. But, the High Court was of the view that in view of the decision of the Full Bench the writ appeal was without merit.

3. It is submitted that the High Court's judgment is dated 19.7.2005, while the identical issue came up for consideration in State of Kerala v. P.V. Neelakandan [2005(5) SCC 561], which was decided on 11.7.2005.

4. Learned counsel for the appellant submitted that the view expressed in C.A. No. 2907 of 2005 decided on 22.2.2001 has also relevance.

5. We are of the view that the case at hand needs to be decided in line with what has been stated in P.V. Neelakandan's case (supra) and in C.A. 2907 of 2005. We, therefore, remit the matter to the High Court to hear the matter afresh and decide the writ appeal in the light of what has been stated by this Court in the aforesaid two decisions.

6. The appeal is disposed of accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi,
September 30, 2008