

SUPREME COURT OF INDIA

State of Kerala

Vs.

Prof. D. Gopalakrishna Pillai

C.A.No.5907 of 2008

(Dr. Arijit Pasayat and Dr. Mukundakam Sharma JJ.)

30.09.2008

JUDGMENT

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*¹ 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*², 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.

¹2003 (3) KLT 345

²2005(5) SCC 561