

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 2651 of 2005 (N)

PETITIONER(S):

1. K.K.ARAVINDAKSHAN,
LIBRARIAN, M.A.M.O. COLLEGE, MUKKOM P.O.
KOZHIKODE.
2. G.P.VIJAYAKUMAR,
LIBRARIAN, HENRY BACKER, COLLEGE
MELUKAVU, MELUKAVUMATTOM P.O., KOTTAYAM.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENT(S):

1. STATE OF KERALA, REP. BY
PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF HIGHER EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
3. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.
4. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOZHIKODE.
5. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOTTAYAM.
R BY GOVERNMENT PLEADER SRI. T.R RAJESH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-10-2015, ALONG WITH WPC. 9962/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

- EXT. P1: TRUE COPY OF THE JUDGEMENT DATED 01.06.2004.**
- EXT. P2: TRUE COPY OF THE OBJECTION DATED 25.08.2004 SUBMITTED BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.**
- EXT. P3: TRUE COPY OF THE ORDER DATED 24.12.2004 ISSUED BY THE DEPUTY SECRETARY OF HIGHER EDUCATION DEPARTMENT ON BEHALF OF THE 2ND RESPONDENT.**
- 3XT. P4: TRUE COPY OF THE RULES PUBLICSED IN KERALA GAZETTE DATED 05.09.2003.**

RESPONDENT (S) EXHIBITS : NIL.

/ TRUE COPY /

PA TO JUDGE

SB

K. VINOD CHANDRAN, J.

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**W.P.(C) Nos.2651 of 2005 and
9962 of 2007**

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Dated this the 19th day of October, 2015

J U D G M E N T

The petitioners are Librarian Gr.IV, who claimed fixation in the higher grade pay scale of Librarian Gr.III. The petitioners were before this Court earlier by Ext.P1, on the ground that the petitioners were declined such higher grade only on the basis of an audit objection. This Court after looking at the contentions, found that the petitioners should be intimated the audit objection and should be given a hearing with respect to the claim raised.

2. Even after that, the petitioners claim was rejected as per Ext.P3, which is impugned herein. The petitioners claim that the petitioners ought to have been given the same benefit which is given to the Kerala Common Pool Library Subordinate

Service, wherein, different grades are provided. Ext.P3 infact found that the pay revision ordered as per G.O (P) No. 600/93/Fin. Dated 18.12.1993 has clearly stated that only if there is a promotion post and the scale of pay of the promotion post is higher than the scale of pay mentioned in Table I and II of the pay revision order, a qualified employee will be given the scale of pay in the direct line of promotion as time bound higher grade. It is also stated in Ext.P3 that the conditions of Librarians in Common Pool Library or the Rules of 2003 does not apply to the petitioners herein.

3. As for the petitioners, the Mahatma Gandhi University Statutes, 1997 apply. The petitioners' contention is that as per Statute 69 of Chapter 45 of the Mahatma Gandhi University Statutes 1997, rules in force in similar Government institutions would apply with respect to fixation in the higher grade. However what is relevant is the question of whether there exists post of Gr.III Librarian in the colleges, which has to be on

the basis of Statute 45 of Mahatma Gandhi University Statutes.

4. Statute 45 indicates that the grade given to Librarian Post (Gr.I to IV) is based on the grade assigned to the Libraries as such. The Libraries are graded with reference to the stock of books and the number of books issued per annum. Hence as in the Common Pool Library Subordinate Service of the Government, there do not exist the different grade posts of librarians in all the colleges. The Librarians in each college would have assigned the grade in accordance with the grade of the libraries and there does not exist promotion post as in the Government service. Only if there is a promotion post in the direct line, would the scale of pay applicable to the promotion post be conferred to avoid stagnation, is the purport of Ext.P3 order in W.P.(C) 2651 of 2005.

5. The categorical statement of the Government being that there is no such post existing, which is a necessary condition even under the pay revision order, the claim of the petitioners in

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9962 of 2007

W.P.(C) No.2651 of 2005 cannot be entertained and the writ petition would stand dismissed.

6. W.P.(C) No.9962 of 2007 would contend that in fact the petitioner is employed in a Corporate Management and there would be post of Librarian Gr.III in other colleges, to which he is entitled to promotion by transfer and if the same is not granted, then the petitioner is entitled to the higher grade. At the outset neither the College or the Corporate Management or even the University is impleaded to verify the existence of such a post. In fact in Ext.P4, the said situation is taken note of and the Director of Collegiate Education specifically finds that he would be entitled to promotion by transfer. However, with respect to the higher grade, it is stated that the petitioner would not be eligible for the scale applicable to the promotion post and would be so eligible only on promotion by transfer. However with respect to higher grade, he can only be placed in the next higher scale. This is for the reason stated herein above with respect to

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the assignment of grades to the Librarians in aided Colleges and there being no higher post in the direct line of promotion.

7. In such circumstance, the petitioners entitlement is only in the next higher scale in the list of standard scale of pay and the petitioner cannot claim for the very same scale in the promotion post and style it as a higher grade sanction. Hence, Ext.P4 in W.P.(C) No.9962 of 2007 also does not suffer from any infirmity.

In the result, the writ petitions would stand dismissed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/20/10/2015

// true copy //

P.A to Judge.