

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WA.No. 664 of 2010 () IN WP(C).11630/2004

AGAINST THE ORDER/JUDGMENT IN WP(C) 11630/2004 of HIGH COURT
OF KERALA DATED 12.07.2007

APPELLANTS/RESPONDENTS 1-3 IN THE WPC:

1. STATE OF KERALA, REPRESENTED
BY SECRETARY TO GOVERNMENT
DEPARTMENT OF HIGHER EDUCATION,
THIRUVANANTHAPURAM.
2. DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.
3. DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOZHIKODE.

BY SENIOR GOVERNMENT PLEADER SRI. P. FAZIL

RESPONDENTS/PETITIONER & 4TH & 5TH RESPONDENT IN W.P.:

1. DR.K.T.RAVEENDRAN, S/O.K.K.CHANDUKUTTY,
READER, DEPARTMENT OF MATHEMATICS, PAYYANUR COLLEGE
EDAT, PAYYANUR.
2. PRINCIPAL, PAYYANUR COLLEGE,
PAYYANUR.
3. THE CHAIRMAN, UNIVERSITY GRANTS
COMMISSION, NEW DELHI.

R1 BY ADV. SRI.P.VIJAYA BHANU

R1 BY ADV. SMT.M.M.DEEPA

R3 BY ADV. SRI.S.KRISHNAMOORTHY, CGC

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
29-05-2015, ALONG WITH WA. 1629/2010, WPC. 7580/2010, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

APPELLANTS' ANNEXURES:

ANNEXURE - A1 : A TRUE COPY OF THE G.O.(RT) NO.1510/2009 DATED
19.09.2009.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

**W.A. Nos.664 & 1629 of 2010
and
W.P.(C) No.7580 of 2010**

Dated this the 29th of May, 2015

JUDGMENT

Antony Dominic,J.

The issues raised in Writ Appeal Nos.1629/2010 and 664/2010 are common. In so far as writ petition No.7580/2010 is concerned, that is filed by respondent No.1 in Writ petition No.664/2010 is essentially for implementation of the judgment obtained by him in his favour. Therefore, we take Writ Appeal No.664/2010 as the leading case and the facts in that case are referred to hereunder.

2. The first respondent filed Writ Petition No.11630/2004 essentially claiming the benefit of two advance increments in terms of the provisions contained in Clause 6.18 of Ext.P1 G.O. The background in which he claimed the said benefit is that he was appointed as Lecturer w.e.f. 3.2.1985. He was later granted higher grade and selection grade w.e.f. 3.12.1993 and 3.12.1998, respectively. In the meanwhile, he acquired Ph.D. on 5.10.1996.

3. In Ext.P1 G.O., Government ordered in Clause 6.18 thereof that a Lecturer with Ph.D. will be eligible for two advance increments when she/he moves to Selection Grade/Reader. Clause 6.19 provided that the teacher will be eligible for two advance increments as and when she/he acquires a Ph.D. degree in her/his service career.

4. In so far as this case is concerned, the short dispute is whether the first respondent was entitled to two advance increments at the rate as applicable to the scale of pay applicable to the post of Selection Grade Lecturer or whether the scale of pay relevant is that of Senior Grade Lecturer. To contend that the scale of pay relevant is that of the Senior Grade Lecturer what is relied on by the appellants is Ext.P4 G.O. dated 29.3.2001. In the judgment under appeal, the learned Single Judge held that the first respondent herein is entitled to have advance increments at the rate as provided in the scale of pay as applicable to the Selection Grade Lecturer. It is the correctness of this finding which is impugned before us.

5. We have heard the learned Government Pleader appearing for the appellants and the learned counsel appearing for the party respondents.

6. As we have already stated, the first respondent acquired Ph.D on 5.10.1996 and was promoted as Selection Grade Lecturer w.e.f. 3.12.1998. The entitlement claimed by him is under Ext.P1 G.O. dated 21.12.1999 which was implemented w.e.f. 1.1.1996. Ext.P1 contained Clause 6.18 referred to above.

7. The provision in Ext.P1 was modified by Ext.P4, Government Order dated 29.3.2001. Modification effected by Ext.P4 was only prospective and if that be so, Ext.P4 could not have affected the eligibility of the first respondent for the benefit of Ext.P1. If that be so, he was entitled to advance increment at the rate as provided in the scale of pay applicable to Selection Grade Lecturer, and not the lower post of Senior Grade Lecturer, as provided in Ext.P1 itself. This precisely is the view taken by the learned Single Judge and that view does not suffer from any infirmity. Therefore, Writ Appeal No.664/2010 has to be dismissed.

8. In so far as Writ Appeal No.1629/2010 is concerned, by the said judgment, the learned Single Judge disposed of W.P.(c) No.33451/2005 filed by the first respondent, following the judgment in W.P.(C) No.11630/2004 against which the Writ Appeal No.664/2010 is filed. In the light of the judgment

dismissing Writ Appeal No.664/2010, this appeal also has to be dismissed.

9. Writ Petition No.7580/2010 is filed essentially seeking a direction for implementation of the judgment in W.P.(C) No.11630/2004 confirmed by us in Writ Appeal No.664/2010. In our view, such a writ petition was not maintainable and therefore we decline to pass any further directions in this writ petition.

The appeals and the writ petition will stand disposed of as above.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

smv