

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

W.A.No.749 of 2013 () IN WP(C).21938/2007

AGAINST THE JUDGMENT IN WP(C) 21938/2007 of HIGH COURT OF KERALA
DATED 14-06-2012

APPELLANTS/RESPONDENTS 2 TO 4

1. DIRECTOR OF COLLEGIATE EDUCATION, OFFICE OF THE
DIRECTOR OF COLLEGIATE EDUCATION, THIRUVANANTHAPURAM
2. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, OFFICE OF THE
DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, KOLLAM
3. SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM

SRI.P.FAZIL, GOVERNMENT PLEADER

RESPONDENT/PETITIONER & RESPONDENTS 1, 5 & 6

1. DR.A.S.RAKHEE, LECTURER IN PSYCHOLOGY,
S.N.COLLEGE, THIRUVANANTHAPURAM RESIDING AT
RISHIKESH, T.C.7/747, MARUTHANKUZHI,
THIRUVANANTHAPURAM 695030
2. UNIVERSITY OF KERALA REPRESENTED BY ITS
REGISTRAR, UNIVERSITY BUILDINGS,
THIRUVANANTHAPURAM 695 001
3. MANAGER, S.N.TRUST, S.N.TRUST
BUILDING, KOLLAM 691001
4. PRINCIPAL, S.N.COLLEGE, CHEMPAZHANTHI 695587

R2 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.

R3 & 4 BY ADV. SRI.A.N.RAJAN BABU

R2 BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA
R BY SRI.M.BALAGOVINDAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

**ANTONY DOMINIC &
P.V.ASHA, JJ.**

W.A. No.749 of 2013

Dated this the 28th day of September, 2015

JUDGMENT

Asha, J.

This writ appeal is filed by the Government against the direction of the learned single Judge to grant advance increments to the first respondent herein in terms of clause 6.16 and 6.18 of Ext.P1 Government order, setting aside Ext.P4 order of the University by which her pay was revised withdrawing the increments granted to her.

2. Ext.P1 is the Government order dated 21.12.1999, by which Government adopted and implemented UGC Scheme 1998 and revised scale of pay of College Teachers. As per clause 6.16 of Ext.P1 Government order, a Lecturer who is having Ph.D at the time of recruitment, is eligible for four advance increments. As per clause 6.18 a Lecturer with Ph.D will be eligible for two advance increments when she/he moves into Selection Grade/Reader. According to Government one who enjoyed the benefit of 4 advance increments under Clause 6.16 need not be

given further advance increments when she moves to Senior Grade. Learned Single Judge held it illegal.

3. We heard the learned counsel appearing on either side.

4. Clause 6.16 to 6.19 of Ext.P1 Government order deals with incentives for Ph.D/M.Phil, which read as follows:

6.16. *Four and two advance increments will be admissible to those who hold Ph.D and M.Phil degrees, respectively at the time of recruitment as Lecturers. Candidates with D.Litt.D.Sc. should be given benefit on par with Ph.D and M.Litt on par with M.Phil.*

6.17. *One increment will be admissible to those teachers with M.Phil who acquire Ph.D within 2 years of recruitment.*

6.18. *A Lecturer with Ph.D will be eligible for two advance increments when she/he moves into Selection Grade/Reader.*

6.19: *A teacher Lecturer will be eligible for two advance increments when she/he acquires a Ph.D Degree in her/his service career.*

5. Advance increments are provided in the UGC Scheme for the purpose of granting incentives to those who have higher qualifications.

6. By Ext.P2 Government order, Government clarified

Ext.P1 order saying that teachers who have got the benefit of advance increment for having Ph.D at the time of recruitment in terms of clause 6.16 will not be eligible for advance increments in terms of clause 6.18 also. It is in answer to a letter received from the office of the Accountant General seeking some clarifications on it, Government issued Ext.P2 order, in effect withdrawing the benefit of the UGC scheme, granted in Ext P1. It is clarified therein that teachers who got Ph.D subsequently and who had not got the benefit earlier also will be eligible for two advance increments when he or she moves into Selection Grade/Reader. Based on this order University has revised the pay of the petitioner to her detriment.

7. The contention raised by the learned Government Pleader is that the teacher who acquired Ph.D and granted 4 advance increments at the time of recruitment as per clause 6.16 will move to Selection Grade within a period of 4 years and therefore she will get another 4 increments. In these circumstances they cannot be granted 2 more advance increments, in terms of clause 6.18, when she moves to Selection Grade. We are unable to

accept the contention of the learned Government Pleader. The Government have issued Ext.P1 Government order revising the scale of pay of teaching staff in the educational institutions under the Higher Education Department adopting and implementing the revised UGC Scheme 1998, in terms of the Government of India's letter issued by the Ministry of Human Resources Development (Department of Education), accepting the conditions stipulated in it. The purpose of the very scheme itself is to improve the standard of education and at the same time to attract qualified hands to the field of teaching providing them sufficient incentives in recognition of their academic achievements.

8. On a reading of clause 6.16 to clause 6.19, which provide for incentives for Ph.D/MPhil holders, we are of the view that the lecturers who have enjoyed 4 advance increments on account of having Ph.D at the time of recruitment cannot be deprived of 2 advance increments provided in Clause 6.18, on moving to Selection Grade. From Ext.P2, it is clear that Government chose to go back from Ext.P1, merely on the basis of objections from the Accountant General. On account of such objections, there is

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no reason for the de-recognition of the Ph.D holders. By denying that incentives provided in Ext.P1, Government is virtually equating Ph.D holders with non-Ph.D holders contrary to the very purpose and intent of the UGC scheme. Petitioner who was having Ph.D at the time of her appointment as Lecturer and was granted 4 advance increments under clause 6.16 was entitled to 2 additional advance increments when she moved to Selection Grade as provided in clause 6.18. The learned Single Judge has rightly quashed Ext P4.

Under the above circumstances, we do not find any merit in the writ appeal filed by Government. Hence we dismiss the Writ appeal.

Sd/-
ANTONY DOMINIC,
JUDGE.

Sd/-
P.V.ASHA,
JUDGE.

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