

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 18049 of 2004 (W)

PETITIONER :

T.C.SOBHANA, AGED 55 YEARS,
W/O.M.KRISHNAN MASTER, 'KRIPA NIVAS', ELAYAVOOR ROAD
THAZHE CHOVVA, P.O.THAZHE CHOVVA, KANNUR DISTRICT.

BY ADVS.SRI.M.V.AMARESAN
SRI.VN.RAMESAN NAMBISAN

RESPONDENTS :

1. THE ACCOUNTANT GENERAL OF KERALA
(A & E), THIRUVANANTHAPURAM.
2. DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOZHIKODE.

R1 & 2 BY GOVERNMENT PLEADER SRI.T.R.RAJESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18049 of 2004 (W)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE ORDER BEARING NO.P18/PEN.A/445/B2/02-03/2027 DATED 30.12.02
TO THE 2ND RESPONDENT

EXT.P2 : COPY OF THE JUDGMENT IN WP(C).NO.15865/03

EXT.P3 : COPY OF AN ORDER BEARING NO.P18/FINA/445/B2/02-03/1758 DATED 27.01.04

EXT.P4 : COPY OF THE JUDGMENT IN C.C.C.89/04

EXT.P5 : COPY OF ORDER OF HIGHER EDUCATION (C) DEPARTMENT BEARING NO.G.O(P)
NO.110/2000/H.EDN DATED 4.7.2000 THIRUVANANTHAPURAM

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

K.VINOD CHANDRAN, J.

W.P.(C) No.18049 of 2004

Dated this the 14th day of October, 2015

J U D G M E N T

The petitioner claims her increment to be on the 1st January 1996. The brief facts to be noticed are that, the petitioner retired as a Selection Grade Lecturer on 31.03.2003 from S.N.College, Kannur. Only when the petitioner applied for pension, there was a re-fixation made since she had been granted an increment on 01.01.1996. The petitioner contends that going by Ext.P5, the petitioner has to be granted such increment and there was no rational in the re-fixation done and the excess pay drawn from 1996 directed to be refunded.

2. The specific clause pointed out by the petitioner is the following :

"Where the increment of a teacher falls on 1st day of January, 1996, he shall have option to draw the increment in the existing scale or the revised scale."

3. The learned Government Pleader however points out one other clause with the proviso as follows :

"II. Date of next increment in the revised scale

The next increment of a teacher whose pay has been fixed in the revised scale in accordance with the

above procedure shall be granted on the date he would have drawn his increment, had he continued in the existing scale :

Provided that in cases where the pay of a teacher is stepped up in terms of Note 4 or Note 5 above, the next increment shall be granted on the completion of qualifying service of twelve months from the date of stepping up of the pay in the revised scale :"

Hence what is submitted is that, the petitioner having been granted a step up on 01.01.1996 as per the proviso, the petitioner could be granted an increment only after completion of 12 months in that stepped up pay.

4. The issue has been further elaborated in the counter affidavit. The petitioner's pay stood revised as on 01.01.1996 and the pay was fixed at ₹15,360/- in the revised scale. The next increment on such re-fixation would only accrue on completion of one year. However, without noticing the said proviso, the Deputy Director of Collegiate Education had fixed her pay at the revised scale and also granted an increment of ₹420/- on the same date making the pay to ₹15,780/-. This was against the specific prescription in Ext.P5.

In such circumstances this Court does not find any reason to interfere with the re-fixation made on the retirement of the petitioner. Hence, this writ petition is dismissed.

Sd/-
K.VINOD CHANDRAN, JUDGE

AV/16/10/