

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 9169 of 2012 (U)

PETITIONER:

**D.SREEDHARAN,
PROGRAMME CO-ORDINATOR (RETIRED),
SCHOOL OF BEHAVIOURAL SCIENCE,
MAHATMA GANDHI UNIVERSITY, KOTTAYAM.**

**BY SRI.BABU VARGHESE (SENIOR ADVOCATE)
ADV. SRI.JOHNSON T. JOHN**

RESPONDENT(S):

- 1. MAHATMA GANDHI UNIVERSITY,
REP. BY IT'S REGISTRAR,
PRIYADARSHINI HILLS.P.O,
KOTTAYAM - 686 560.**
- 2. THE VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY,
PRIYADARSHINI HILLS.P.O,
KOTTAYAM - 686 560.**

BY SRI. T.A. SHAJI, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT-P1- TRUE COPY OF THE COMMON JUDGMENT DATED 14/03/2007 IN W.P(C) 35976/2004 AND 1973 OF 2004.
- EXHIBIT-P2- TRUE COPY OF THE NOTICE/COMPLAINT DATED 16/11/2007.
- EXHIBIT-P3- TRUE COPY OF THE UNIVERSITY ORDER DATED 05/05/2001.
- EXHIBIT-P4- TRUE COPY OF THE RELEVANT PORTION OF THE ORDER OF THE HON'BLE HIGH COURT DATED 06/10/2008 IN I.A 34/2008 IN COC 1191/2007.
- EXHIBIT-P5- TRUE COPY OF THE G.O(P) 186/2002/H.EDN. DATED 28/12/2002.
- EXHIBIT-P6- TRUE COPY OF THE LETTER SENT BY THE REGISTRAR OF THE UNIVERSITY DATED 23/04/1993 DECLINING PERMISSION TO VISIT BHARATHIYAR UNIVERSITY.
- EXHIBIT-P7- TRUE COPY OF THE CERTIFICATE DATED 23/09/1997 ISSUED BY THE ARC OF MONTGOMERY COUNTY, MARYLAND, U.S.A.
- EXHIBIT-P8- TRUE COPY OF THE CERTIFICATE DATED 19/11/1997 ISSUED BY THE KINGS WOOD MENTAL HEALTH CENTRE, U.K.
- EXHIBIT-P9- TRUE COPY OF THE CERTIFICATE DATED 03/07/1997 ISSUED BY THE VICE CHANCELLOR.
- EXHIBIT-P10- TRUE COPY OF THE UNIVERSITY LETTER DATED 07/05/2009.
- EXHIBIT-P11- TRUE COPY OF THE JUDGMENT DATED 20/09/2011 IN W.P(C) 23244/2011.
- EXHIBIT-P12- TRUE COPY OF THE LETTER DATED 22/10/2011 SENT BY THE REGISTRAR OF THE UNIVERSITY.
- EXT-P12(A)- TRUE COPY OF THE LETTER DATED 16/12/2011 FROM THE REGISTRAR.
- EXHIBIT-P13- TRUE COPY OF THE 'NOTE TO SYNDICATE'.
- EXHIBIT-P14- TRUE COPY OF THE EXPERT'S OPINION.
- EXT-P14(A)- TRUE COPY OF THE RELEVANT PORTION OF THE DIRECTOR'S REPORT.
- EXHIBIT-P15- TRUE COPY OF THE REPRESENTATION DATED 06/02/2012 SUBMITTED BEFORE THE HONOURABLE VICE CHANCELLOR.
- EXHIBIT-P16- TRUE COPY OF THE STATEMENT SHOWING THE ARREARS OF PAY AND ALLOWANCES, DCRG, PENSION, ETC. WORKED OUT BY AN EXPERT.

RESPONDENTS' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 9169 of 2012

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Dated this, the 28th day of October, 2015

J U D G M E N T

Petitioner challenges Exts.P12 and P12(a) by which his request for promotion under Career Advancement Scheme has been rejected by the University. It is *inter alia* stated in Exts.P12 and P12(a) that it has been rejected based on the report of the Expert Committee. The contention urged by the petitioner is that he was appointed as Programme Co-ordinator in the School of Behavioural Sciences on 16/1/1991. The post of Programme Co-ordinator is equivalent to the post of Director, Student Services and Adult and Continuing Education as per UGC guidelines. His contention is that though he was holding a teaching post, he was illegally sent out from service at the age of 55 prematurely. He filed WP(C) No.2994/04 before this Court. By judgment dated 27/1/2004, this Court issued a declaration that the petitioner is entitled for the scale of pay of teaching faculty and that he is entitled to be paid arrears for the break in period along with other service benefits.

2. The contention urged by the petitioner is that though the learned Single Judge of this Court directed other service benefits to be given to him, he was not given the benefit of Career Advancement Scheme in terms with the UGC guidelines. Though several representations were given, ultimately his claim was rejected in terms of Exts.P12 and P12(a). Learned counsel for the petitioner points out that when the learned Single Judge of this Court had already held in WP(C) No.35976/2004 that the petitioner is entitled for all the benefits attached to the teaching faculty in terms with the UGC guidelines, petitioner is also entitled for the benefit of Career Advancement Scheme as well.

3. Counter affidavit has been filed by the respondent University *inter alia* stating that the petitioner was appointed as a Programme Co-ordinator which is purely non academic in nature. This Court in WP(C) No.35976/2004 has only held that he is entitled for the scale of teaching faculty and that he is liable to be paid arrears for the break in period and in compliance with the said judgment, all necessary reliefs have been given including salary arrears during the break in period. It is contended that though he was entitled for the scale of pay fixed for teaching

faculty, he is not appointed to the post of teacher and therefore he is not entitled for any promotion under the Career Advancement Scheme.

4. Learned counsel for the petitioner relies upon Ext.P3 notification issued by the University on 5/5/2001. With reference to Lecturer in Senior Scale, career advancement is given to persons who had completed six years of service and in respect of Lecturer Selection Grade, who had completed five years of service in Senior Scale. Apparently this applies only to persons who were holding the post of Lecturer Senior Scale or Lecturer Selection Grade. The petitioner all along his career was holding the post of Programme Co-ordinator. His claim is based on the judgment of the learned Single Judge in WP(C) No.35976/2004. In the said case, contention urged was that the post of Programme Co-ordinator is one sanctioned by the UGC and his appointment was made after a selection process conducted by the University. He was compulsorily retired from service on 31/5/2000 on completion of 55 years on the ground that he was holding a non teaching post. He challenged the same by filing OP No.9552/2000, which came to be dismissed. However, in WA No.1275/2000, the said

judgment was set aside and the University was directed to take a decision in the matter. Subsequently, his representation was rejected which was challenged by filing WP(C) No.2994/2004, wherein, this Court directed the Vice Chancellor to pass appropriate orders. Thereafter, an order was passed stating that the post of Programme Co-ordinator in the School of Behavioural Sciences being placed under the teaching faculty of the school, the petitioner was reinstated as Programme Co-ordinator in the School of Behavioural Sciences and was permitted to continue in service under completion of 60 years of age. He rejoined duty on 22/3/2004. It is on that basis that the learned Single Judge after taking into consideration the relevant factual situation, allowed the writ petition.

5. But the question now is whether even though the post of Programme Co-ordinator in the School of Behavioural Sciences is placed under the teaching faculty of the School, whether he is entitled for the promotion under the Career Advancement Scheme, which is available only to Lecturer Senior Scale and Lecturer Selection Grade. It is apparent that though petitioner can be described as a teaching faculty, his post is not equivalent to

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Lecturer Senior Scale or Lecturer Selection Grade. Under such circumstances, I am of the view that petitioner is not entitled for claiming promotion under the Career Advancement Scheme or any benefits pursuant to the same.

In the result, there being no basis for the above writ petition, the same is dismissed.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

29/10/2015

//True Copy//

PS to Judge