

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 15802 of 2009 (U)

PETITIONER(S):

**DR.M.R.SASEENDRANATH, PROFESSOR & HEAD
DEPARTMENT OF VETERINARY EPIDEMIOLOGY &
PREVENTIVE MEDICINE, COLLEGE OF VETERINARY
& ANIMAL SCIENCE, MANNUTHY, TRISSUR
RESIDING AT DWARAKA, P.O.ARIMPUR
TRISSUR.**

**BY ADV. SRI.P.V.JAYACHANDRAN
SRI.SAJEEV KUMAR**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY THE
AGRICULTURAL PRODUCTION COMMISSIONER, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. THE KERALA AGRICULTURAL UNIVERSITY,
REPRESENTED BY ITS REGISTRAR
KERALA AGRICULTURAL UNIVERSITY POST, VELLANIKKARA
THRISSUR.**
- 3. THE REGISTRAR,
KERALA AGRICULTURAL UNIVERSITY
KERALA AGRICULTURAL UNIVERSITY POST, VELLANIKKARA
THRISSUR.**
- 4. THE COMPTROLLER,
KERALA AGRICULTURAL UNIVERSITY
KERALA AGRICULTURAL UNIVERSITY POST, VELLANIKKARA
THRISSUR.**

**R1 BY ADV.P.V.ELIAS, GOVERNMENT PLEADER
R2-R4 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KERALA AGR. UNSTY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-06-2015,
ALONGWITH WP(C) 30783/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO.15802/2009

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : COPY OF THE ORDER NO.GA/C2/41477/88 DATED 03.03.89**
- P2 : COPY OF THE ORDER NO.G.O.(P) NO.171/99 DATED 21.12.99**
- P3 : COPY OF THE ORDER NO.G.O.(P) NO.40/2002/H.EDN. DATED 30.04.2002**
- P4 : COPY OF THE PROCEEDING NO.GA/C2/23346/99(280) DATED 25.08.2007**
- P5 : COPY OF THE LETTER NO.34007/PU-B1/08.FIN DATED 24.09.2008**

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.15802 of 2009

&

W.P.(C) No.30783 of 2007

Dated this the 9th day of June, 2015

JUDGMENT

W.P.(C). No.30783/2007 is filed by the petitioner, who is working as Associate Professor in the Regional Agricultural Research Station of the Kerala University at Kumarakom seeking a writ of mandamus commanding respondents 2 and 3 to issue orders granting Career Advancement Promotion to the post of Professor in the scale of pay of Rs.16,400-22,400/- in 1996 UGC scheme with effect from 21.06.2004 and for other consequential reliefs.

2. W.P.(C). No.15802/2009 is filed by the petitioner, who is working as Professor & Head, Department of Veterinary Epidemiology & Preventive Medicine, College of Veterinary & Animal Science, Mannuthi seeking a writ of certiorari to quash Ext.P4 proceedings dated 25.08.2007 to the extent to which the petitioner is inducted to the post of Associate Professor with effect from 30.12.1989, instead of 01.12.1987 and to the post of

Professor with effect from 07.04.2002, instead of 01.01.1996; a declaration that the petitioner is legally entitled to get induction to the post of Associate Professor in Rs.3,700-5,000 scale in 1986 UGC Scheme and Career Advancement Promotion to the post of Professor in Rs.16,400-22,400 scale in 1996 UGC Scheme with effect from 01.01.1996; and for other consequential reliefs.

3. The stand taken by the respondent University in its statement/counter affidavit is that, 8 years service from the date of acquisition of Ph.D is required for promotion/Career Advancement Promotion and that the service rendered prior to the acquisition of Ph.D cannot be reckoned. Hence the promotion/Career advancement promotion granted to the petitioners in these writ petitions are perfectly legal and that, the petitioners are not entitled for the reliefs prayed for.

4. The issue raised in these writ petitions is covered against the petitioners by a judgment of the Division Bench of this Court in W.P.(C). No.30802/2007 and connected cases in which this Court after referring to various Clauses, including Clause 6.29 of the 1966 UGC Scheme held that one has to complete 8 years service in the post of Reader, i.e., 8 years after the acquisition of Ph.D. to become eligible for promotion as

Professor. After holding so, the Division Bench held that the petitioners in those writ petitions are not entitled for the reliefs prayed for. Paragraph 6 of the judgment in WP(C) No.30802/2007 and connected cases reads thus:

"6. Ext.P1 is the 1996 UGC Scheme, as adopted for the Kerala Agricultural University, by the State Government. Clause 6.7 of the said Scheme reads as follows:-

"6.7. The Ph.D. should continue to be a compulsory requirement for the designation of Reader. However, for other categories, like those of Registrars, Librarians and Physical Education Directors, the Ph.D. should be a desirable and not an essential qualification."

The above clause would show that Ph.D. degree was always a mandatory qualification for the designation of Reader. Clause 6.21 reads as follows:-

"6.21. For movement into grades of Reader and above, the minimum eligibility criterion would be Ph.D. Those without Ph.D. can go up to the level of Lecturer (Selection Grade)."

The above clause would show that for moving into the grade of Reader, acquisition of Ph.D. is mandatory. Clause 6.22 reads as follows:-

"6.22. A Reader with a minimum of eight years of service in that grade will be eligible to be considered for appointment as a Professor."

So, a Reader has to complete eight years' service to become eligible to be considered for appointment as

Professor. For promotion to the post of Reader, as evident from Clause 6.27, acquisition of Ph.D. degree is mandatory. The said clause reads as follows:-

"6.27. A Lecturer in the Senior Scale will be eligible for promotion to the post of Reader if she/he has :

- (i) Completed 5 years of service in the Senior Scale.
- (ii) Obtained a Ph.D. degree or has equivalent published work.
- (iii) Made some mark in the areas of scholarship and research as evidenced e.g. by self-assessment, reports of referees, quality of publications, contribution to educational innovation, design of new courses and curricula and extension activities.
- (iv) After placement in the Senior Scale participated in two refresher courses/summer institutes of approved duration, or engaged in other appropriate continuing education programmes of comparable quality as may be specified or approved by the University Grants Commission, and
- (v) Possesses consistently good performance appraisal reports."

Clause 6.29 would show that eight years' service as Reader is mandatory for promotion as Professor. The said clause reads as follows:-

"In addition to the sanctioned position of Professors, which must be filled in through direct recruitment through all India advertisements, promotions may be made from the post of Reader to that of Professor after 8 years of service as Reader."

Going by the above statutory provisions, we think, the petitioner can be considered as a Reader only from 1.10.2001, the date on which she acquired the Ph.D. qualification. Going by Clause 6.29, it is manifestly clear that the petitioner has to complete eight years' service in the post of Reader, i.e., eight years' service, after the acquisition of Ph.D., to become eligible for promotion as Professor. So, we find nothing wrong with the stand taken by the second respondent. In the absence of a legal right and a corresponding duty in the second respondent, this Court cannot issue any mandamus, as sought for by the petitioner.

5. The learned counsel for the petitioner in these writ petitions would submit that the judgment of the Division Bench of this Court in W.P.(C). No.30802/2007 and connected cases is pending in appeal before the Apex Court in Civil Appeal Nos.11523 - 11524 of 2011.

6. In view of the judgment of the Division Bench of this Court referred to above, the petitioners in these writ petitions are not entitled for the reliefs sought for.

In such circumstances, these writ petitions fail and they are dismissed.

But it is made clear that, it would be open to the petitioners in these writ petitions to re-agitate the issue before the respondent University, in case the judgment of the Division Bench in W.P.(C).No.30802/2007 is interfered with by the Apex Court in Civil Appeal Nos.11523-11524 of 2011.

Therefore, the request made by the learned counsel for the petitioners in these writ petitions to keep these writ petitions pending till the disposal of those Civil Appeals is declined.

No order as to costs.

JV

sd/-
ANIL K. NARENDRAN,
JUDGE