

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No.16998 of 2014 (Y)

PETITIONER:

**DR.C.RAJAN,ASSOCIATE PROFESSOR IN ENGLISH (RETIRED),
SREE KERALA VARAMA COLLEGE,THRISSUR,
RESIDING AT CHATHOTH HOUSE,AYYANTHOLE P.O.
PIN-680003,THRISSUR.**

BY ADV.SRI.P.CHANDRASEKHAR

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF HIGHER EDUCATION,
SECRETARIAT,THIRUVANANTHAPURAM.**
- 2. THE ACCOUNTANT GENERAL,KERALA,
THIRUVANANTHAPURAM,PIN-695001.**
- 3. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM,PIN-695001.**
- 4. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
THRISSUR,PIN-680020.**

R1 TO R3 BY SENIOR GOVT. PLEADER SMT.K.SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

**EXHIBIT P1-TRUE COPY OF THE NOTIFICATION DATED 1-2-2007 OF THE
DIRECTOR IN CHARGE OF UNIVERSITY OF CALICUT (COLLEGE OF
DEVELOPMENT COUNCIL).**

**EXHIBIT P2-TRUE COPY OF CERTIFICATE AWARDING PH.D. TO THE PETITIONER
ISSUED BY THE VICE CHANCELLOR OF THE SAID UNIVERSITY.**

EXHIBIT P3-TRUE COPY OF ORDER DATED 30-1-2013 OF THE 4TH RESPONDENT.

**EXHIBIT P4-TRUE COPY OF THE ORDER DATED 31-12-2008 OF THE
GOVERNMENT OF INDIA, DEPARTMENT OF HIGHER EDUCATION.**

**EXHIBIT P5-TRUE COPY OF GO (P) NO.58/2010/HEDN.DATED 27-3-2010 OF THE
1ST RESPONDENT.**

**EXHIBIT P6-TRUE COPY OF G.O.(MS) NO.16/2013/H.EDN DATED 19-1-2013 OF
THE 1ST RESPONDENT.**

**EXHIBIT P7-TRUE COPY OF G.O.NO.597/2013/H.EDN DATED 3-9-2013 OF THE
1ST RESPONDENT.**

**EXHIBIT P8-TRUE COPY OF REPRESENTATION 1-02-2014 OF THE PETITIONER TO
THE 4TH RESPONDENT.**

**EXHIBIT P9-TRUE COPY OF THE LETTER DATED 20-2-2014 OF THE PRINCIPAL,
SREE KERALA VARMA COLLEGE,THRISSUR ADDRESSED TO THE
4TH RESPONDENT ALONG WITH FIXATION STATEMENT.**

**EXHIBIT P10-TRUE COPY OF ORDER LETTER NO.E3-1191/2014 DATED 24-5-2014
OF THE 4TH RESPONDENT.**

RESPONDENT'S EXHIBITS:

EXT.R4(a):TRUE COPY OF THE GOVERNMENT ORDER DATED 3.9.2013.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C).No.16998 of 2014

Dated this the 23rd day of March, 2015

J U D G M E N T

The grievance of the petitioner is that the petitioner was not granted the benefit of Ext.P5 Clause 10.4. Ext.P5 Government order stipulates certain condition on revision of Scale of pay of teachers in Universities, Affiliated colleges etc. based on UGC scheme. This order was issued on 27.3.2010. Clause 10.4 reads as follows:

“Teachers who complete their Phd degree while in service shall be entitled to three non-compounded increments if such Ph.D is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course-work and evaluation etc.”

2. The petitioner’s grievance is that the petitioner is entitled for three non-compoundable increment in the light of Clause 10.4 as he had acquired Ph.D. in the relevant

discipline. The petitioner acquired Ph.D. On 24.4.2007.

3. In this matter counter affidavit has been filed by the 4th respondent. It is stated that the petitioner is not entitled to get one more advance increment with effect from 1.9.2008 as per GO (MS) 597/13/H.Edn. dated 3.9.2013.

4. The learned Government Pleader relies on Clause iii of Ext.R4(a) Government Order, which stipulates that those who have availed the benefits of advance increments under the earlier schemes for possessing Ph.D/Mphil at the entry level shall not be entitled to the benefits of advance increments under the 6th UGC scheme.

5. Admittedly the petitioner was given two advance increments based on acquisition of PhD. while in service. The only question is whether based on the Government Order produced as Ext.R4(b), the petitioner can be denied three increments. It is to be noted that Clause iii (1) of Ext.R4(a) referred as above clearly except certain persons from claiming pre-revised rate of increments. Persons

mentioned in Clause iii (1) are also entitled for pre-revised scale. Clause iii(1) provided as follows:

“Teachers who have acquired Ph.D. While in service between 1.1.2006 and 31.8.2008 shall be eligible for two non-compounded advance increments in the revised scale of pay at the pre-revised rate of increment from the date of their acquiring Ph.D till 31.8.2008 and at the revised rate of increment with effect from 1.9.2008”

The learned counsel for the petitioner relies on Clause iii(1) of Ext.PR4(a) itself and would submit that the petitioner is also entitled for advance increment in the light of the above Government Order.

6. I am of the view that having adverted to Clause iii(1) of Ext.PR4(a), the petitioner is entitled to revised rate of increments with effect from 1.9.2008. The present Government Order only restrict claiming pre revised rate before 1.9.2008. In that view of the matter the petitioner is entitled to succeed. The petitioner shall be given pre-revised rate of increment with effect 1.9.2008. Arrears due

to the petitioner shall be disbursed within three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

**A.MUHAMED MUSTAQUE,
JUDGE**

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"The words "The petitioner shall be given pre-revised rate of increment with effect 1.9.2008" occurring in the 6th and 7th lines of the 6th paragraph of the judgment are corrected and substituted as "The petitioner shall be given revised rate of increment with effect from 1.9.2008" vide order dated 1.6.2015 in I.A. No.5421/2015 in W.P.(C) No.16988/2014.

Sd/

Registrar (Judicial)