

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 17587 of 2014

Dated this the 13th day of January, 2015

J U D G M E N T

Petitioners 1 to 3 are working as Assistant Professors in M.S.M. College, Kayamkulam. The 4th petitioner is working as Assistant Professor, in Fathima Matha National College, Kollam. The petitioners have acquired Ph.D on the following dates.

Sl.No.	Name	Date of Awarding of Ph.D.
1.	Dr.Lakshmi	20.08.1998
2.	Dr.S.Farook	23.09.2010
3.	Dr.Biju.R.I.	26.09.2011
4.	Dr.Anil Jose	17.11.2008

2. This writ petition pertains to grant of five non-compounded advance increments to the petitioners in the light of Ext.P2 UGC Regulations.

3. Ext.P2 UGC Regulation dated 30.6.2010 was formulated in exercise of powers under Section 26 of University Grants Commission Act, 1956. This regulation provides incentives for

Ph.D/M.Phil holders with effect from 1.9.2008. The relevant Clause in the regulation is 9.1. Regulation 9.1 is as follows:

“Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D awarded in a relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC.”

4. Petitioners submit that by virtue of the above regulation, they are entitled to five non-compounded advance increments. However it is submitted that Government of Kerala by Ext.P3, restricted the above incentives only to the Teachers who have entered on service on or after 1.9.2008 with Ph.D acquired before 18.9.2010. Petitioners submit that the Government has no authority to stipulate any condition contrary to UGC regulations. The petitioner also challenges Ext.P3 Government Order to the extent of repugnancy.

5. A counter affidavit has been filed on behalf of the 2nd respondent. It is stated in Paragraph 4 of the counter affidavit that, petitioners are not entitled for the benefits based on the

Government Order. It is further stated that in the matter of granting advance increments to those teachers who enter service without NET needs further examination, and further consultation with UGC. It is further stated that the Government issued another instruction dated 28.8.2014 clarifying that advance increments can be granted to those lecturers who have not passed NET, subject to the final clarification by UGC. Therefore, the stand of the Government is appears to be that petitioners can be granted increment subject to the clarification by the UGC. Petitioners relies on UGC(Minimum qualifications) Regulations, 2010. Petitioners refers to Regulation 3.3.1 and submits that the candidates who are having Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009 shall be exempted from the requirement of the minimum eligibility condition of NET. Therefore, the petitioners submit that the clarification sought by the Government from UGC has no basis.

6. In the light of counter affidavit and UGC Regulations referred as above, petitioners are entitled for increment as referred in the regulation. No doubt that this will be subject to any decision of the UGC. In view of the stand in the counter affidavit referred as above, the challenge against the Government Order has become redundant, as the Government itself has clarified that the increment can be given to the petitioners subject to the clarification by the UGC. Therefore, the writ petition is disposed of directing to disburse five non-compounded advance increments to the petitioners as admissible as per Ext.P2 without any delay.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

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