IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 29051 of 2013 (F)

PETITIONER:

DR. G. SADANANDAN,
LECTURER(SELECTION GRADE), DEPARTMENT OF POLITICS
SREE KERALA VARMA COLLEGE, THRISSUR.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS:

1. **DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,**
   THRISSUR-680001.

2. **DIRECTOR OF COLLEGIATE EDUCATION,**
   THIRUVANANTHAPURAM-695001.

3. **STATE OF KERALA,**
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT
   HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
   THIRUVANANTHAPURAM-695001.

R1 & 2 BY GOVERNMENT PLEADER SMT. LOWSY A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 29051 of 2013 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 A TRUE COPY OF THE ORDER NO.G.II/SPECIAL CELL II/SKVS.II/99 DT.3-7-1999 OF THE UNIVERSITY OF CALICUT

EXT.P2 A TRUE COPY OF THE RELEVANT EXTRACT OF G.O.(P) 171/99/H.EDN.DT.21-12-1999 ISSUED BY THE 3RD RESPONDENT

EXT.P3 A TRUE COPY OF THE JUDGMENT IN W.P(C)28793/2009 & CONNECTED CASES OF THIS HONOURABLE COURT.

EXT.P4 A TRUE COPY OF THE JUDGMENT DT.30-05-2013 IN W.P(C) 13269/2013-C OF THIS HONOURABLE COURT.

EXT.P5 A TRUE COPY OF THE ORDER NO.E3-5455/2013/K.DIS DT.26-9-2013 ISSUED BY THE IST RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

SCL.

A. MUHAMMED MUSTAQUE, J.

W.P.(C) No.29051 of 2013

Dated this the 21st day of January, 2015.

JUDGMENT

The petitioner was appointed as Junior Lecturer in Politics in Sree Kerala Varma College, Thrissur on 31.10.1983. The appointment has been approved by the University of Calicut. Thereafter, he was promoted as Lecturer with effect from 31.10.1985. After the implementation of the UGC scheme in the State of Kerala, the petitioner was placed to UGC scale of pay and he was promoted as Lecturer (senior scale) with effect from 31.10.1990 and thereafter promoted as Lecturer (Selection Grade) with effect from 1.10.1997. The petitioner obtained Ph.D on 28.6.1997 from the University of Kerala. On the basis of the Clause 6.18 of Ext.P2 Government order dated 21.12.1999, the petitioner is entitled to get two advance increments when he moves into Selection Grade as per Ext.P1. However, in spite of forwarding the proposal by the Principal of the petitioner's college, no action has been taken to sanction

two increments. The similarly situated approached this Court by filing W.P.(C) No.36882 of 2007 and obtained Ext.P3 judgment. In Ext.P3 judgment, this Court directed the competent authority to take appropriate decision to grant advance increments to the petitioners therein on account of moving into the Lecturer Selection Grade. By Ext.P3 judgment, this Court held that sanctioning advance increment in the lower scale for fixing the pay in the higher scale, cannot be sustained and the Government order to that effect is invalidated and thereafter directed to re-examine the eligibility of each petitioners therein to grant advance increments.

2. The petitioner also approached the Government for similar benefit. This Court directed the Government to consider that request as per Ext.P4 judgment in W.P.(C) No.13629 of 2013. Thereafter, Ext.P5 order was passed. It is to be noted that the petitioner was granted the benefit in lower scale. This stand, no doubt is against the dictum laid down in Ext.P3 judgment, wherein this Court held that by granting

advance increments in lower scale amounts to denial of the benefit to the parties. Therefore, there is no sanctity for Ext.P5 order. In view of the above matter, Ext.P5 is liable to be set aside to the extent, it is stated in the counter affidavit that the petitioner was not granted the benefit for the reason that the petitioner was not a party to Ext.P3 proceedings. I am of the view that this cannot be a reason for non-granting the benefit. There is no dispute to the fact that the petitioner's claim is similar to persons in Ext.P3 judgment.

In the light of the above, there shall be a direction to the first respondent to sanction and disburse the advance increment into the petitioner, in the light of the Government order No.179/1999 dated 21.12.1999 from the date on which he has been moved to Selection Grade or with effect from the date on which the scheme is implemented in the State.

A. MUHAMMED MUSTAQUE
JUDGE

Scl.