

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

W.P.(C).No.27397 of 2014 (Y)

PETITIONER(S):-

BHAGYALEKSHMI P.C., AGED 37 YEARS, D/O.CHANDRADETH P.R.,
ASSISTANT PROFESSOR (M.B.A.DEPARTMENT)
SREE NARAYANA GURUKULAM COLLEGE OF ENGINEERING,
KADAYIRUPPU, KOLENCHERRY IN ERNAKULAM DISTRICT,
RESIDING AT 50/2335 CI, PUSHPA NIVAS, SAMRUTHY NAGAR,
EDAPPALLY, KOCHI - 682 024.

BY ADVS.SRI.K.RAMAKUMAR (SENIOR ADVOCATE)
SRI.S.M.PRASANTH
SRI.C.DINESH
SMT.AMMU CHARLES
SRI.G.RENJITH.

RESPONDENT(S):-

1. MAHATMA GANDHI UNIVERSITY
PRIYADARSINI HILLS P.O.,
KOTTAYAM 686 560,
REPRESENTED BY ITS REGISTRAR.

2. THE REGISTRAR,
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O.,
KOTTAYAM - 686 560.

R1 & R2 BY STANDING COUNSEL SRI.VARUGHESE M.EASO.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-01-2015, ALONG WITH W.P.(C).NO.2624 OF 2013-C, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1: TRUE COPY OF THE NOTIFICATION DATED 1/7/2010 ISSUED BY THE M.G.UNIVERSITY.
- EXT.P2: TRUE COPY OF THE APPLICATION DATED 12/7/2012 SUBMITTED BY THE PETITIONER.
- EXT.P3: TRUE COPY OF THE COMMUNICATION DATED 13/9/2012 RECEIVED BY THE PETITIONER.
- EXT.P4: TRUE COPY OF THE REQUEST DATED 22/4/2013 SUBMITTED BY THE PETITIONER.
- EXT.P5: TRUE COPY OF THE ORDER DATED 19/6/2013 ISSUED BY THE UNIVERSITY.
- EXT.P6: TRUE COPY OF THE REQUEST DATED 10/9/2013 SUBMITTED BY THE PETITIONER.
- EXT.P7: TRUE COPY OF THE ORDER DATED 13/6/2014 ISSUED BY THE UNIVERSITY.
- EXT.P8: TRUE COPY OF THE REPRESENTATION DATED 28/7/2014 SUBMITTED BY THE PETITIONER.
- EXT.P9: TRUE COPY OF THE COMMUNICATION DATED 17/9/2014 RECEIVED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS:-

- EXT.R1(a) TRUE COPY OF THE REGISTRATION ORDER NO.3181/AX/2012/ACADEMIC DATED 28.6.2012.
- EXT.R1(b) TRUE COPY OF THE RELEVANT PROVISION OF THE Ph.D REGULATION 2010, REGARDING PART-TIME RESEARCH.
- EXT.R1(c) TRUE COPY OF THE RELEVANT PAGE OF PROVISION RULE 29(1) OF THE PhD REGULATION 2010, REGARDING DISCONTINUANCE OF RESEARCH.
- EXT.R1(d) TRUE COPY OF THE PhD REGULATION 2010.

VKU/

(true copy)

K.Vinod Chandran, J.

W.P.(C).Nos.27397 of 2014-Y & 2624 of 2013-C

Dated this the 28th day of January, 2015

JUDGMENT

The petitioner in W.P.(C).No.27397 of 2014 is aggrieved with the discontinuance of her research, which discontinuance was only for reason of her own default. The petitioner admittedly was an employee of a self-financing college affiliated to the 1st respondent-University. The petitioner applied for registration and award of the Degree of Doctor of Philosophy, as per a notification of 01.07.2010 [Exhibit P1]. The petitioner's short contention is that, the notification itself specifically provided that after one year of regular full-time research in the University Department, a student could opt for conversion of the research programme to part-time, which was denied to the petitioner by the University. The petitioner specifically relies on Clause 8(a) of the notification, which indicates, among others, that "teachers in the University Departments and affiliated colleges in the State" (*sic*) are eligible for conversion to such part-time research.

2. The petitioner initially filed a writ petition with two others, as W.P.(C).No.2624 of 2013, in which Exhibits P15, P16 and P17 orders issued to the petitioner and two others were challenged. No orders were passed in the said writ petition and the same is still pending before this Court. However, later on, the 1st petitioner in W.P.(C).No.2624 of 2013 has approached this Court with W.P.(C).No.27397 of 2014, contending that there was an amendment brought into the Regulations on 19.06.2013, which permitted teachers from unaided colleges affiliated to the 1st respondent-University also to seek conversion to part-time research. The petitioner contends that going by Exhibit P1 even otherwise the petitioner would be entitled for part-time conversion and in any event, by Exhibit P5 amendment the petitioner would be entitled to seek for re-registration from the date on which the petitioner had discontinued from the earlier research programme.

3. The 1st respondent-University has filed a counter affidavit in W.P.(C).No.27397 of 2014. It was the 1st respondent who brought to the notice of this Court that there is another writ petition pending on the very same issue and no orders have been

issued in the same. It was, hence, that W.P.(C).No.2624 of 2013 was also called for. The learned counsel appearing for the petitioner in W.P.(C).No.2624 of 2013 appears before Court and submits that in the context of there being a separate writ petition, on contacting the petitioner herein he was instructed to withdraw the same. W.P.(C).No.2624 of 2013, hence, would stand dismissed as withdrawn. The learned counsel for the petitioner explains the conduct of the petitioner on the ground that the petitioner was not aware of the fact that the petitioner had to disclose the filing of the earlier writ petition when the second writ petition was filed. It is also submitted that the second writ petition was filed on a separate cause of action, on the amendments coming into force. Though this Court is not satisfied with the explanation, this Court would consider the issue on merits.

4. With respect to the contention in W.P.(C).No.27397 of 2014, the University has stated in its counter affidavit that the notification produced as Exhibit P1 is not complete. It was specifically indicated in Exhibit P1, which is a print-out of the notification appearing in the website of the University, that before

online application submission, the new regulations have to be gone through under the head “Specific Instructions to Candidates”. The University produced the Regulations issued in the year 2010 as Exhibit R1(d). Clause 12 of Exhibit R1(d) deals with conversion to part-time research and sub-clause (a) entitles, among others, teachers in the University Departments and Government and **Aided** affiliated colleges in the State. The discrepancy occurred in the notification, having not included the word “Aided” before the words “affiliated colleges in the State”. However, the specific regulations having been worded otherwise than the notification and the said regulations having been specifically referred to in the notification, the petitioner cannot plead ignorance; nor can the petitioner bank upon the obvious omission committed in the notification.

5. It is also pertinent that the petitioner has continued in the University Department as a full-time research scholar for one year and it is not as if the petitioner was not aware that, only teachers in the University Departments and Aided-affiliated colleges in the State were granted permission for conversion to

part-time research. The petitioner's contention that Exhibit P1 notification conferred a right on the petitioner for conversion cannot be sustained on the teeth of the regulations, which, Exhibit P1, specifically refers to.

6. The further contention raised by the petitioner is with respect to the amendment brought in, as per Exhibit P5, on 19.06.2013. The petitioner's contention is that the teachers from unaided colleges were also entitled for conversion as per the amendment of 19.06.2013. The petitioner maintains that the same is applicable to her since it speaks of registrations of 2010-12. However, it is to be noticed that the petitioner had discontinued her research as early as on 06.03.2012, when she had completed one year full-time research and had, on being declined conversion to part-time research, chosen to discontinue the research as such and joined the college in which she was employed. If the petitioner had continued on full-time basis, then definitely on the introduction of the amendment as per Exhibit P5 she could have sought for conversion for part-time research. The regulation as it existed on 01.07.2010 did not permit the part-time employees of un-aided

colleges (self-financing colleges) to be granted conversion to part-time research. The petitioner had an option to continue on leave from the college in which she was employed and continue the full-time research, which, obviously, the petitioner did not avail of. Having discontinued the same, the petitioner cannot seek benefit of an amendment which is brought in later to her discontinuance from the research programme. In such circumstances, though Exhibit P5 amendment would apply to the registration of 2010-12, the petitioner having discontinued from the research programme, cannot claim the benefit of the same.

7. The learned counsel for the petitioner then relies on Clause 29 of Exhibit R1(d) dealing with "discontinuance of research", which reads as under:

"29. Discontinuance of research

- i. A candidate's leave or absence from the centre beyond the permitted period, or his failure to pay the fees for research or non-compliance of rules regarding submission of progress reports for two terms or his failure to seek guidance of the supervising teacher for more than a year shall lead to his/her removal from the rolls.

- ii. Research students thus removed from the rolls, if they want to continue their work, shall be required to re-register themselves by submitting an application with the proper recommendations of the Doctoral Committee and paying all arrears of fee, the re-admission fee and the fine. In such cases the Vice-Chancellor, on the recommendations of the Supervising teacher and with due justification, can condone the break of research period if he/she so deserves.
- iii. Re-registration shall be granted only once and that too, within the maximum period of research permitted. The maximum period of research of such candidate will be same as in the case of others”.

8. Hence, a candidate who had discontinued research would be entitled to seek for re-registration, provided such re-registration is applied for within the maximum period of research. In the case of the petitioner, the petitioner's maximum period of research, being a full-time candidate, is five years as specified in Clause 25(ii) of Exhibit R1(d). The petitioner's research having commenced in the year 2011, the maximum period of research in the case of the petitioner would be available till the year 2016. Hence, if the present regulations permit such

re-registration as provided in Exhibit R1(d), the petitioner would be entitled to seek such re-registration and the University shall consider the same in accordance with law and in accordance with the present regulations. The petitioner's earlier registration can only enure to her as a claim to seek re-registration and the continuance of the programme has to be on the terms stipulated by the University, in its Regulations. The petitioner shall make such an application, if so advised, within a period of one month from today and the University shall consider the same within three months thereafter.

W.P.(C).No.27397 of 2014 is disposed of with the above observation.

Sd/-
K.Vinod Chandran
Judge

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