

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 33953 of 2011 (T)

PETITIONER :

**PRASANNA KUMARI. E. S, ERUVELIL WARRIOM,
CHOTTANIKARA P.O., ERNAKULAM DIST,
KERALA-682312**

BY ADV. SMT.SANGEETHA LAKSHMANA

RESPONDENTS :

- 1. THE REGISTRAR,
KANNUR UNIVERSITY, MANGATTUPARAMBU,
KANNUR UNIVERSITY CAMPUS P.O., KANNUR-670567, KERALA**
- 2. VICE CHANCELLOR,
KANNUR UNIVERSITY, MANGATTUPARAMBU,
KANNUR UNIVERSITY CAMPUS P.O., KANNUR-670567, KERALA**

ADDL.R3 IMPEADED :

- 3. KAVITHA BALAKRISHNAN,
D/O.K.M.BALAKRISHNAN, AGED 36 YEARS,
SANJEEVANI DUTT COMPOUND, MANAKAVU.P.O.,
KOZHIKODE -673007.**

**ADDL. R3 IS IMPEADED AS PER ORDER DATED 13/08/2012 IN
IA NO.10913/2012.**

**R1 & R2 BY ADV. SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY
BY ADV. SRI.P.K.IBRAHIM, SC, KANNUR UNIVERSITY
ADDL.R3 BY ADV. SRI.SAJITH KUMAR V.
BY ADV. SRI.C.P.JOHNY (ERNAKULAM)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, ALONG WITH WPC. 19769/2012, THE COURT
ON 08-06-2015 DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1:- A COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE MEDICAL BOARD DTD 30/10/09**
- EXT.P2:- SERIES A COPY OF THE EDUCATIONAL AND PROFESSIONAL CERTIFICATE**
- (A): COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE**
- (B): MARK LIST-DEGREE(MAHATMA GANDHI UNIVERSITY)DTD 13/1/2004**
- C): COPY OF THE DEGREE OF BACHELOR OF LAW(MAHATAMA GANDHI UNIVERSITY)DTD 4/7/2000**
- (D): COPY OF THE DEGREE OF COMMERCE ISSUED BY THE FACULTY COMMERCE, (UNIVERSITY OF KERALA)DTD 29/4/1988**
- (E): COPY OF THE QUALIFICATION CERTIFICATE OF NATIONAL ELIGIBILITY TEST FOR LECTURESHIP,ISSUED BY (UNIVERSITY GRANTS COMMISSION)DTD 21/3/2005**
- (F): COPY OF THE CERTIFICATE OF ENROLLMENT (THE BAR COUNCIL OF KERALA)DTD 25/4/2000**
- (G): COPY OF THE CERTIFICATE ISSUED BY THE KERALA HIGH COURT BAR ASSOCIATION DTD 30/09/2010**
- (H): COPY OF THE WORK EXPERIENCE CERTIFICATE ISSUED BY FAITH INDIA DTD 1/09/2010**
- EXT.P3:- A COPY OF THE NOTIFICATION ISSUED BY THE KANNUR UNIVERSITY DTD 29/1/2008**
- EXT.P4:- A COPY OF THE MEMO ISSUED BY THE KANNUR UNIVERSITY BEARING NO.AD.BI/APPOINTMENT /LR-LAW/2010 IS PRODUCED DTD. ON 22/09/2010**
- EXT.P5:- A COPY OF THE G.O.DTD 29/5/1973 BEARING NO.C.O(P)NO.158/73/ PD DTD 3/12/1987**
- EXT.P6:- A COPY OF THE REPRESENTATION REGARDING INTERVIEW OF THE POST ON LECTURER IN LAW HELD ON 5/10/2010,DTD 22/12/2010**
- EXT.P7:- A COPY OF THE APPLICATION MADE TO THE RIGHT TO INFORMATION OFFICER DTD 22/11/2011**
- (A): TRANSLATION TO ENGLISH – A COPY OF THE APPLICATION MADE TO THE RIGHT TO INFORMATION OFFICER DTD 22/11/2011.**

WP(C).NO. 33953 OF 2011 (T)

**EXT.P8:- COPY OF THE DOCUMENT ISSUED BY KANNUR UNIVERSITY BEARING
NO. RTI/MISC/VO.1.VIII/08 DT 23/12/2011.**

**EXT.P9:- COPY OF THE DOCUMENT ISSUED BY KANNUR UNIVERSITY BEARING
NO.RTI/MISC/VOI.VIII/O8 DT 29/12/2011.**

RESPONDENTS' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

'C.R.'

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33953 OF 2011 (T)

&

W.P.(C).NO.19769 OF 2012 (U)

Dated this the 8th day of June, 2015

J U D G M E N T

As both these writ petitions involve a common issue, they are taken up for consideration together and disposed by this common judgment. For the sake of convenience, the reference to facts and exhibits is from W.P.(C).No.33953/2011.

2. The petitioner is a visually impaired person with 100% disability as certified by a Medical Board. She acquired an LLB Degree followed by a Post Graduate Degree (LLM) and also obtained the National Eligibility Test [NET] qualification that is mandated by the University Grants Commission for appointment as Lecturers. In the year 2008, the petitioner responded to Ext.P3 notification dated 29.1.2008 issued by the Kannur University inviting applications for the post of Lecturer in Law. In the said notification, one post of Lecturer in the Department of Law was notified, and was reserved for physically handicapped persons. The notification made it clear that if

there were no eligible candidates from the category for which the post was reserved, candidates belonging to other eligible categories including open category would be considered strictly as per the norms stipulated in the Kerala State & Subordinate Services Rules, 1958. The qualifications for the post of Lecturer were prescribed as follows:

Qualifications:

As per UGC norms as follows:

Lecturer:-

1. *Good academic record with at least 55% of the marks or an equivalent grade of B in the seven point scale with latter grades O, A, B, C, D, E and F at masters degree level, in the relevant subject from an Indian University, or an equivalent degree from a foreign University.*
2. *The candidate should have cleared the National Eligibility Test (N.E.T.) conducted by the U.G.C., C.S.I.R. or similar test accredited by the U.G.C.*

(Note: Candidates having Ph.D. degree in the subject concerned are exempted from N.E.T.)

Thereafter the stipulation with regard to age was prescribed as follows:

Age: (As on 01-01-2008)

Below 40 years

Usual relaxation in upper age will be given to candidates belonging to SC, ST, OBC and other categories as per University rules.

The candidates were required to submit an application form to reach

the Registrar of Kannur University, and the application form was to be accompanied by attested copies of the certificates proving age, qualifications, experience, community, non creamy-layer certificate etc. The petitioner complied with the procedural conditions in the notification and submitted her application within time. Thereafter, by Ext.P4 memo dated 22.9.2010, the petitioner was directed to appear before the Selection Committee for an interview, in connection with the appointment to the post of Lecturer in Law in the University Teaching Department, on 5.10.2010. Ext.P4 memo directed the petitioner to be present on that day at the University office along with the original certificates to prove age, academic qualifications, community, experience, non creamy-layer certificate and other documents as required in the notification. It was made clear in the memo that insofar as the post was reserved for physically handicapped candidates, a certificate from the medical authority concerned had also to be produced at the time of interview. The stipulation in the notification that if there were no eligible candidates from the category for which the post was reserved, candidates belonging to other reserved category would be considered and in their absence, open category candidates also would be considered as prescribed in the notification, was reiterated. It is the case of the

petitioner that when she attended the interview pursuant to Ext.P4 memo, a question was raised at the interview with regard to the age of the petitioner and the petitioner clarified to the Selection Committee that, by virtue of Ext.P5 Government order dated 29.5.1973 as also Government order dated 25.5.1984 issued by the State Government, she was entitled to the benefit of age relaxation as contemplated for physically handicapped candidates under the said Government orders. The facts in the writ petition would disclose that when no communication was received from the respondent University for long time, despite the petitioner having preferred Ext.P6 representation seeking clarification regarding the status of the selection proceedings, the petitioner was constrained to approach this Court through W.P.(C).No.33953/2011. During the pendency of the said writ petition, and through a counter affidavit filed in the above writ petition by the 3rd respondent, the petitioner came to understand that the 3rd respondent was appointed to the post of Lecturer in Law with effect from 21.12.2011. Inasmuch as the 3rd respondent was a candidate under the open category and the notification dated 29.1.2008 issued by the University was for the post of Lecturer in Law reserved for physically handicapped candidates, the petitioner challenged the selection of the 3rd respondent through W.P.(C).

No.19769/2012. In the said writ petition, the petitioner claims the following reliefs:

- i. Issue a Writ of Mandamus or any other appropriate Order or Direction declaring that the appointment granted to the Fourth Respondent on 21.12.2011 by the First and Second Respondents to the post of Lecturer in Law, called under the vacancy and reservation Quota for Physically Handicapped as per Exhibit P1 Appointment Notification Dt.29.01.2008 No.Acad/B3/CTP/UGC-X/04(RN) issued by the First Respondent Kannur University, as illegal;
- ii. Issue a Writ of Mandamus or any other appropriate Order or Direction declaring that the Petitioner herein is entitled to be appointed as a Lecturer in Law, called under the vacancy and reservation Quota for Physically handicapped as per Exhibit P1 Appointment Notification Dt.29.01.2008 No.Acad/B3/CTP/UGC-X/04(RN) issued by the First Respondent Kannur University.
- iii. Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, directing the First and Second Respondents to grant all benefits to the Petitioner herein including arrears of salary with interest and seniority consequential to Prayer (ii) above;
- iv. Issue such other Writ, Order or Direction as this Hon'ble Court may deem fit in the circumstances of this case, in the interest of justice.

3. A counter affidavit has been filed on behalf of respondents 1 to 3, who represent the Kannur University in W.P.(C).No.19769/2012. It is pointed out that the Government orders pertaining to age relaxation in respect of physically handicapped persons was

implemented in the respondent University only through Ext.R-1(a) proceedings dated 21.1.2009. It is pointed out that Ext.R-1(a) proceedings themselves were drawn up to comply with the directions of the State Government in Ext.R-1(b) order dated 1.3.2008 that directed the University to adopt the age relaxation norms in the University. The gist of the contentions of the respondents in the counter affidavit is that, on the last date of receipt of applications pursuant to the notification dated 29.1.2008, the respondent University had not adopted the Government orders governing age relaxation in respect of physically handicapped persons, and, hence, inasmuch as the petitioner was admittedly beyond 40 years of age [40 years and 7 months] as on 1.1.2008, the cut-off date prescribed in the notification, the petitioner did not satisfy the eligibility requirements for appointment to the post in question. It is also contended that although the respondent University had implemented the age relaxation norms in the University with effect from 21.1.2009, the norms could not be made applicable to the case of the petitioner because the said adoption of the Government order had only prospective effect in respect of notifications issued after the date of adoption. The aforesaid contentions are reiterated in the counter affidavit of the 4th respondent [the 3rd respondent in W.P.(C).

No.33953/2011] and hereinafter referred to as the '3rd respondent' in this judgment]. Apart from the above, it is also the contention of the 3rd respondent that the post of Lecturer in Law was not a post that was identified by the Government as one that could be reserved for physically handicapped persons, including visually handicapped persons. It is the case of the 3rd respondent that the post of Lecturer in Law was notified as a post that could be reserved for physically handicapped persons only by the Government order dated 17.10.2012, and, hence, the notification issued by the University inviting applications from the physically handicapped persons for the post of Lecturer in Law, was itself illegal. It is further pointed out that the respondent University had in fact already filled up the post of Lecturer in Law, reserved for physically handicapped persons, by the appointment of a candidate on 2.5.2007. While the said candidate had since resigned from the post, the fact remains that the post reserved for physically handicapped persons was already utilized, and therefore, there was no justification for a further reservation through the notification that is the subject matter of the present writ petitions.

4. I have heard Smt.Prasanna Kumari E.S., the petitioner in both the writ petitions, who appeared in person in W.P.(C).

No.19769/2012, Smt.Sangeetha Lakshmana, the learned counsel appearing for the petitioner in W.P.(C).No.33953/2011, Sri.V.Muhammed, the learned Standing counsel appearing for the Kannur University as also Sri.V.Sajith Kumar, the learned counsel appearing for the 3rd respondent.

5. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the main issue to be decided in the instant case is whether the petitioner, who is admittedly a physically handicapped person having 100% disability, and possessed of the required academic qualification for the post of Lecturer in Law that was notified on 29.1.2008, could be said to be disqualified on account of the fact that she was aged 40 years and seven months as on 1.1.2008, the cut-off date mentioned in the notification. The issue assumes significance because in the notification itself, there is an express provision which states that “usual relaxation in upper age will be given to candidates belonging to SC, ST, OBC and other categories as per University rules”. It is the case of the petitioner that inasmuch as it is the admitted case that the University had adopted the Government orders granting age relaxation to physically handicapped persons, with effect from

21.1.2009, she was entitled to the benefit of the said age relaxation norms at least by 5.10.2010, when she attended the interview pursuant to Ext.P4 memo dated 22.9.2010 that was issued to her calling her for the same. Alternatively, it is her contention that even de hors a formal adoption of the Government orders by the respondent University, the University which answers to the description of "State" within the meaning of the term under Article 12 of the Constitution of India, was obliged to follow the Governmental norms with regard to age relaxation for physically handicapped persons, while completing the selection process. It is her specific contention that the respondent University erred in finding that there was no person qualified for appointment under the physically handicapped quota and thereafter appointing the 3rd respondent, who was an open category candidate, to the said post.

6. Per contra, the learned counsel for the respondent University, as well as for the 3rd respondent, would vehemently contend that inasmuch as the petitioner was not qualified in terms of the notification as on the last date of receipt of applications contemplated under the notification, the petitioner could not claim a right to be considered for the post that was notified by the respondent

University. Reliance is placed on the following decisions in support of the said contention:

- 1. Sundaresa Kamath v. Kitty Lopez - [1991 (1) KLT 741]**
- 2. Dr.Ami Lal Bhat v. State of Rajasthan and Others - [(1997) 6 SCC 614]**
- 3. Vosto Paul v. The Kerala Public Service Commission - [Laws(Ker)-2000-4-25]**
- 4. Bhupinderpal Singh and Others v. State of Punjab and Others - [(2000) 5 SCC 262]**
- 5. Praveen.A. v. High Court of Kerala and Others - [2007 (4) KHC 307]**
- 6. A.Manoharan and Others v. Union of India and Others - [(2008) 3 SCC 641]**
- 7. Asha P. And Others v. State of Kerala and Others - [2009 (4) KHC 721 (DB)]**
- 8. Bedanga Talukdar v. Saifudaullah Khan - [Laws(SC)-2011-9-14]**
- 9. Tamilnadu Association For The Rights Off All Types Of Differently Abled And Care Givers Taratdac, Rep. By its State Secretary S.Namburajan v. Secretary To Government, Differently Abled Welfare Department - [Laws(Mad)-2012-6119]**
- 10. Anil Kumar Bansal v. State of Chhattisgarh - [Laws (Chh)-2013-10-51]**

7. On a consideration of the rival submissions, I am of the view that the settled legal position, that the determination of eligibility of a candidate in a selection process must be with reference to the cut-off date specified in the notification itself, or as on the last date of receipt of applications pursuant to the notification, does not call for any

debate. The issue in this case, however, is not as to whether the petitioner was qualified, either in terms of educational qualifications or in terms of age, as on the date prescribed in the notification or as on the last date of receipt of applications stipulated in the notification. The notification is categorical when it states that the age of 40 years has to be determined as on 1.1.2008. Admittedly, the petitioner was 40 years and 7 months as on 1.1.2008. The notification, however, specified that candidates would be entitled to the usual relaxation in upper age that is given to candidates belonging to SC, ST, OBC and other categories as per University rules. The issue to be considered, therefore, is whether, as per the University rules that existed on the date of the notification, an age relaxation in respect of physically handicapped persons was contemplated or not. It is not in dispute in the instant case that, by Ext.R-1(a) proceedings dated 21.1.2009, the respondent University itself had adopted the Government orders granting age relaxation to physically handicapped persons and thereby expressly included the same in its Rules. Does it follow that prior to the date of adoption of the Government orders on age relaxation, the University Rules did not contemplate the grant of such age relaxation to physically handicapped persons? To answer that question, one has to consider the following aspects:

- (a) The respondent University itself had identified a post of Lecturer in Law as suitable for reservation for physically handicapped persons.
- (b) The notification dated 29.1.2008 was issued for the purposes of identifying such a candidate.
- (c) The notification also envisaged a relaxation of upper age limit in respect of candidates belonging to SC, ST, OBC and other categories as per the University Rules.
- (d) The selection procedure that commenced with the issuance of the notification dated 29.1.2008 was not completed till 5.10.2010, the date on which the petitioner was interviewed by the Selection Committee and was required to produce certificates that showed her eligibility for the post.
- (e) On 20.1.2009, well before the date of interview of the petitioner, the respondent University had expressly adopted the Government orders granting relaxation of upper age to physically handicapped persons into its Rules.
- (f) The Government orders, governing age relaxation for physically handicapped persons, that were issued after 1995 have necessarily to be viewed in

the backdrop of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Disabilities Act, 1995', and seen to be issued by the State Government pursuant to its obligations under the said Act. The said orders therefore partook of the nature of "Law" as far as the University was concerned, since it was a body that received aid from the State Government and hence obliged to further the objects of the Disabilities Act, along with the State Government. It followed, therefore, that the University was not required to expressly adopt the relevant Government orders before deeming it to be a part of its Rules. The said Government orders had to be read into the Rules as forming part thereof even without an express act of adoption. In that sense, the act of adoption through Ext.R-1(a) proceedings could only be seen as one intended to clarify the pre-existing legal position.

- (g) The respondent University, that would fall within the ambit of the term "State" as defined under Article 12 of the Constitution of India, was even otherwise obliged to adopt the age relaxation norms stipulated by the State Government pursuant to the latter's obligation under the Disabilities Act, 1995. This would have been necessitated so as to further the Legislative intent expressed under the Disabilities Act, 1995.

An overall consideration of the aforesaid aspects leads me to conclude that it was not open to the respondent University to have relied on a technical plea, that the adoption of the Government orders governing age relaxation was only with effect from a date subsequent to the date of notification, so as to defeat the lawful rights of the petitioner to be considered for the post in question.

8. There is yet another aspect of the matter. The Disabilities Act, 1995 was enacted to give effect to the proclamation on the Full Participation and Equality of the People in the Asian and Pacific Region. In a meeting to launch the Asian and Pacific Decade of the Disabled Persons, 1993-2002 convened by the Economic and Social Commission for Asian and Pacific Region, which was held at Beijing from 1.12.1992 to 5.12.1992, a proclamation was adopted on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. India is a signatory to the said Proclamation. The Proclamation itself was on the following lines:

“To give full effect to the Proclamation it was felt necessary to enact a legislation to provide for the following matters:

(i) to spell out the responsibility of the State towards the prevention of disabilities, protection of rights, provision of medical care, education, training, employment and rehabilitation of persons

with disabilities;

(ii) to create barrier-free environment for persons with disabilities;

(iii) to remove any discrimination against persons with disabilities in the sharing of development benefits, vis-a-vis non-disabled persons;

(iv) to counteract any situation of the abuse and the exploitation of persons with disabilities;

(v) to lay down a strategy for comprehensive development of programmes and services and equalisation of opportunities for persons with disabilities; and

(vi) to make special provision for the integration of persons with disabilities into the social mainstream."

The Disabilities Act, 1995, inter alia contains in Chapter VI thereof, provisions relating to the employment of disabled persons through the device of reservation of posts, establishment of Special Employment Exchanges, the formulation of schemes for ensuring employment of persons with disabilities and the reservation and setting apart of not less than 3% seats in Government educational institutions and other educational institutions receiving aid from Government etc. The Disabilities Act also specifically stipulates that if in any recruitment year, any vacancy cannot be filled up due to non-availability of persons with disabilities, such vacancy shall be carried forward. If, in the succeeding year, the vacancies in the respective categories cannot yet again be filled up by an eligible candidate, the vacancy must first enure to the benefit of any of the other specified categories; and only

in the event that there are no candidates available even in the other categories, can the employer fill up the reserved vacancy through a general appointment. It is apparent from a perusal of the Scheme of the Disabilities Act, 1995, and in particular, Sections 38 and 39 thereof, that once the appropriate Government issues an order granting age relaxation to physically handicapped candidates, pursuant to its obligation to formulate schemes for ensuring employment of persons with disabilities, then a failure to implement such schemes by authorities or other bodies that draw aid from the State Government for their functioning, can be remedied through the issuance of a writ of mandamus **[See Pradip Kumar Maity v. Chinmoy Kumar Bhunia and Others - [(2013) 11 SCC 122]].**

This, coupled with the fact that the Disabilities Act, 1995 itself is a Social Welfare Legislation, the provisions of which much receive liberal interpretation, would mandate that the respondent University be compelled to follow the age relaxation norms stipulated by the State Government while selecting candidates belonging to the physically handicapped category. In the instant case, this legal position assumes greater significance when one considers that the very object of the notification in question was to identify a physically handicapped candidate to the post.

9. I must now deal with the contention of the respondents, with reference to case law, that the petitioner did not possess the requisite age qualification as on the cut-off date specified in the notification. No doubt, if the notification had only prescribed a cut-off date and did not provide for any relaxation of the upper age limit, the plethora of case law relied upon by the respondents would have come to their aid to effectively contend that the petitioner could not lay a valid claim for consideration of her candidature. The notification, in the instant case, however, contained an express provision conferring an age relaxation as per the University Rules. Thus, the present is a case where even the author of the notification envisaged the grant of an age relaxation wherever the Rules permitted. As already noted above, the Government orders granting age relaxation formed an integral part of the Rules of the respondent University in this case, and, hence, the decisions relied upon by the respondents are clearly distinguishable on facts. The other contention raised on behalf of the 3rd respondent, namely that the post in question was not notified for filling up with physically handicapped candidates till 2012, cannot also be sustained. As a matter of fact, the post was notified for filling up even under the Government orders issued prior to 2012. That apart, in the instant

case, the respondent University had unilaterally decided to reserve the post in question for physically handicapped persons. The said action of the respondent University in notifying the post in question for filling up through a physically handicapped person was not challenged by any one, including the 3rd respondent, at any stage. Under the said circumstances, I am of the view that the 3rd respondent cannot be permitted to raise such a challenge collaterally in these proceedings.

10. The upshot of the aforesaid discussion is that the respondent University erred in not considering the candidature of the petitioner for selection to the post of Lecturer in Law, against the post reserved for physically handicapped candidates, at the time of interview on 5.10.2010. I am of the view that the suitability of the petitioner for the post in question has to be considered by the respondent University, after treating the petitioner as one who is eligible for appointment to the said post. As regards the appointment of the 3rd respondent in W.P.(C).No.33953/2011 [4th respondent in W.P.(C).No.19769/2012], my findings above would mandate that the appointment of the 3rd respondent as Lecturer in Law in the respondent University with effect from 21.12.2011, pursuant to a

decision taken by the respondent University, to make appointments from the open category candidates, after finding that there was no physically handicapped persons that could be appointed, is to be annulled. I take note, however, of the submission of the learned counsel for the 3rd respondent that an annulment of the appointment of the 3rd respondent, at this stage, would seriously affect her prospects of getting another job considering her age and other factors. I also find that this unfortunate predicament of the 3rd respondent has arisen solely on account of an erroneous stand adopted by the respondent University that there was no qualified candidate to be appointed under the Physically handicapped category. Under the said circumstances, I direct the respondent University to consider the case of the 3rd respondent for retaining her, if possible, against any other vacancy in a sanctioned post or through the creation of a supernumerary post, if the rules of the respondent University so permit.

In conclusion, the writ petitions are allowed by holding as follows:

- (i) The action of the respondent University in not considering the suitability of the petitioner for the post of Lecturer in Law, under the quota earmarked for physically handicapped candidates, is clearly illegal.

(ii) The appointment of the 3rd respondent to the post of Lecturer in Law, pursuant to the notification that was intended for physically handicapped candidates, and consequent to a finding that there was no such candidate available, is declared illegal. Accordingly, the order of the respondent University appointing the 3rd respondent as Lecturer in Law with effect from 21.12.2011, shall stand annulled.

(iii) The respondent University is directed to consider the suitability of the petitioner for the post notified, through the notification dated 29.1.2008, by treating her as a candidate who has the necessary age qualification for the post and is otherwise eligible for the post. The respondent University shall complete the aforesaid exercise within a period of two months from the date of receipt of copy of this judgment.

(iv) There will be no order as to costs.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp