

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 32223 of 2015 (C)

PETITIONER:

**DR.DIVYA BALAN AGED 30 YEARS
ASSISTANT PROFESSOR/GUEST FACULTY
DEPARTMENT OF INTERNATIONAL RELATIONS & POLITICS
CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE
KASARAGOD, KERALA 671316, RESIDING AT ANANDHA VILASAM
MEZHUVELI PO, PATHANAMTHITTA DISTRICT, KERALA
PIN 689507**

**BY ADVS.SRI.MATHEW A KUZHALANADAN
SMT.V.K.ANJU**

RESPONDENT:

**THE VICE CHANCELLOR
CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS
PERIYE PO, KASARAGOD 671316
REPRESENTED BY ITS REGISTRAR**

**R1 BY ADVS. SRI.V.SAJITH KUMAR, SC, CENTRAL UNIVERSITY OF KERALA
SRI.K.R.RAJ KUMAR, SC, CENTRAL UNIVERSITY OF KERA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE NOTIFICATION BEARING NUMBER 95/P/2015 ISSUED BY JAWAHARLAL NEHRU UNIVESITY DATED 04.03.2015**
- P2: TRUE COPY OF THE DOCTOR OF PHILOSOPHY DECREE AWARDED BY THE JAWAHARLAL NEHRU UNIVERSITY DATED 08.04.2015**
- P3: TRUE COPY OF THE EMPLOYMENT RE-NOTIFICATION DATED 13.02.2015 ISSUED BY THE CENTRAL UNIVERSITY OF KERALA**
- P4: TRUE COPY OF THE CANDIDATES LIST FOR INTERVIEW IN THE DEPARTMENT OF INTERNATIONAL RELATIONS**
- P5: TRUE COPY OF THE APPLICATION FORM ALONG WITH ANNEXURES SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DT. 26.3.2015**
- P6: TRUE COPY OF THE CALL LETTER ISSUED TO THE PETITIONER BY THE RESPONDENT DATED 18.9.2015**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 32223 of 2015 (C)

Dated this the 6th day of November, 2015

J U D G M E N T

The petitioner, an applicant to the post of Assistant Professor in the Department of International Relations, Central University of Kerala, is aggrieved by the fact that she was not considered, only for reason of she having not proved that she had a Ph.D. qualification as on the date of application.

2. The notification under which the petitioner applied is produced at Ext.P3. By clause (9) of the General Information at Ext.P3 "The qualification prescribed shall be as on the last date of receipt of application."(sic) The last date of receipt of application was on 27.3.2015 by clause (17) of Ext.P3. The petitioner had, in fact, produced a certificate issued by the Chairperson, Centre of European Studies, Jawaharlal Nehru University dated 17.2.2015, certifying that the petitioner had successfully defended her thesis in the viva-voce conducted on 16.2.2015.

3. The interview was conducted on 13.10.2015, when Ext.P2 certificate was produced. However, there was no date specified, as to the date on which the award of thesis was made. In fact, the certificate indicated the date of issuance as 8.4.2015.

4. In such circumstance the petitioner, though interviewed, was not considered. The petitioner, before this Court, produced Ext.P1 which indicates the date of award of degree as 17.2.2015. In fact, Ext.P1 was available, going by the date, at the time of interview, but, however, the same was not produced. The petitioner submits that, in fact, the petitioner had not received it, though the date is indicated as 17.2.2015 and only when the present controversy arose the petitioner obtained the same; which is a part of the records of the University.

5. Admittedly, the petitioner, at the time of interview, could not satisfy the Board that she had the Ph.D. qualification as on the last date of application. But,

however, it is amply demonstrated that the petitioner had obtained the Ph.D. degree as on the date of application by Ext.P1, now produced in the writ petition, but, not produced before the interview Board. Hence, if the consideration itself was not made, the petitioner would not have had a case.

6. In such circumstance this Court, considering the fact that the petitioner was interviewed, called for the records of the Interview Board. The learned Standing Counsel for the respondent has produced the proceedings of the selection committee. The consolidated list as also the list of the OBC, were produced, in two different sealed covers. On going through the proceedings of the interview it is indicated that the petitioner was awarded marks, but, however, was not considered in the ranking since she had failed to prove that she had obtained her Ph.D. as on the last date of application.

7. Going through the marks awarded and the rank list, this court is convinced that the petitioner's candidature also has to be considered. There is no requirement for any fresh selection to be made on such a direction. The marks awarded to the petitioner at the interview by the selection committee has to be reckoned and a list drawn up in accordance with such marks. The same shall be done expeditiously.

8. This Court stands fortified in issuing such direction by **Dolly Chhanda v. Chairman, Jee and others - (2005) 9 SCC 779**. The Jawaharlal Nehru University who issued Ext.P2 certificate has not indicated the date of grant of Ph.D. It is only due to the same having been not indicated that the petitioner was considered as not having acquired the Ph.D. as on the last date of application. The Jawaharlal Nehru University, it is stated, as a practise, only notices the year of award and not the exact date. The petitioner's claim, having been established and the selection

committee having considered the petitioner and also awarded her marks at the interview, this is a fit case in which the discretionary, extraordinary remedy can be invoked.

The writ petition is allowed.

Sd/-
K.VINOD CHANDRAN,
JUDGE