IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WA NO. 761 OF 2021

AGAINST THE JUDGMENT DATED 24.03.2021 IN WP(C) NO.13944 OF 2020 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

PARVATHY PAVITHRAN
AGED 45 YEARS
SENIOR LECTURER/SOFTWARE ENGINEER, DEPARTMENT OF COMPUTER SCIENCE, NISH, NISH ROAD, SREEKARIYAM P. O., THIRUVANANTHAPURAM - 695 017.

BY ADV S.KRISHNAMOORTHY

RESPONDENTS/RESPONDENTS:

1. **STATE OF KERALA**
   REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT, SOCIAL JUSTICE DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM - 695 001.

2. **NATIONAL INSTITUTE OF SPEECH AND HEARING**
   REP. BY EXECUTIVE DIRECTOR, NISH ROAD, SREEKARIYAM P. O., THIRUVANANTHAPURAM - 695 017.

3. **THE PROJECT BOARD**
   REP. BY CHAIRPERSON, NISH, NISH ROAD, SREEKARIYAM P. O., THIRUVANANTHAPURAM - 695 017.

4. **RAJI N.**
   SENIOR LECTURER / SOFTWARE ENGINEER, NOW PROMOTED AS ASSISTANT PROFESSOR, DEPARTMENT OF COMPUTER SCIENCE, NISH NISH ROAD, SREEKARIYAM P. O., THIRUVANANTHAPURAM

- 695 017.

5 THE STATE COMMISSIONER AND SECRETARY TO GOVERNMENT EX-OFFICIO FOR PERSONS WITH DISABILITY, REP. BY THE COMMISSIONER ANJANEYA, T. C. NO.9/1023(1), GROUND FLOOR, CHATHAMANGALAM, THIRUVANANTHAPURAM - 695 010.

BY ADV M.R Sarin Panicker
SMT.NISHA BOSE, SR.GP

THIS WRIT APPEAL WAS FINALLY HEARD ON 24.03.2025, THE COURT ON 10.04.2025 PASSED THE FOLLOWING:

JUDGMENT

Muralee Krishna, J.

This writ appeal is filed under Section 5(i) of the Kerala High Court Act, 1958 by the petitioner in W.P.(C)No.13944 of 2020. That writ petition was filed by the appellant-petitioner under Article 226 of the Constitution of India seeking the following reliefs:

> "i) To issue a writ of certiorari or other appropriate writ order or direction to call for the records leading to Exhibit P2 and quash the same, to the extend in giving promotion to the post of Assistant Professor.
> ii) To issue a writ of certiorari or other appropriate writ order or direction to call for records leading to Ext P1 to the extent of awarding marks as composite weight age score and to quash the same declaring that the NET qualified candidate ought to have been given priority in awarding the marks.
> iii) To issue a writ of mandamus or other writ, order or direction declaring that the promotion given to 4th respondent as per Ext P2 is incorrect and the same is to be quashed especially when performance appraisal of the committee appointed by 3rd respondent had not considered granting weight age to a net qualified candidate.
> iv) To issue a writ of mandamus or other writ, order or

direction declaring that the petitioner is to be granted promotion to the post of Assistant Professor with retrospective effect from the date of promotion of 4th respondent and to be granted all benefits with retrospective effect.

v) To issue a writ of mandamus or other writ, order or direction directing the 5th respondent to implement Exhibit P6 Order taking penal action against the 2nd respondent.''

2. According to the appellant, she is a differently abled person with 90% hearing disability, presently working as a Senior Lecturer in the Department of Computer Science in the 2nd respondent, which is an autonomous Institution registered as a society by the Social Justice Department, Government of Kerala. In the year 2018, the selection process was initiated for promotion to the post of Assistant Professor in the Department of Computer Science based on Ext.P1 promotion recommendation memo issued by the Institute. The appellant and other four candidates participated in the selection process for the only one vacancy of Assistant Professor, notified. Based on the performance evaluation conducted by the promotion committee appointed by the 3rd respondent Project Board, the 4th respondent was ranked first and promoted to the post of Assistant Professor. The appellant was

ranked 4th in the selection process. Contending that the appellant was the only candidate with National Eligibility Test (NET) qualification as prescribed in Ext.P1, the selection of 4th respondent who has no NET qualification is challenged by the appellant by filing the writ petition.

3. The 4th respondent who is the selected candidate for the promotion, filed a counter affidavit dated 22.09.2020 in the writ petition producing therewith Exts.R4(1) and R4(2) documents. The 2nd respondent also filed a counter affidavit dated 05.02.2021 producing therewith Exts.R2(a) to R2(d) documents.

4. After hearing both sides, the learned Single Judge dismissed the writ petition. Being aggrieved, the appellant filed this appeal.

5. Heard the learned counsel for the appellant, the learned Senior Government Pleader and the learned counsel for the party respondent.

6. The learned counsel for the appellant would submit that as per Ext.P1 memo one of the qualifications required for promotion to the post of Assistant Professor is UGC NET. As per note 2 of the qualification prescribed, only in the absence of

candidates with UGC NET, grace period of two years, i.e, till 2020 can be allowed for existing staff members to acquire UGC NET qualification. The 4th respondent who had no UGC NET qualification was granted promotion by granting grace period of two years, while the appellant who has that qualification was one of the candidates. Therefore, the selection process and consequent list are liable to be quashed.

7. The learned Senior Government Pleader would submit that the selection was conducted by constituting a performance appraisal committee and the 4th respondent secured 1st rank in the selection process. A comparative performance appraisal was done by the committee and in that assessment the appellant was placed in the 4th rank. None of the candidates had all the required five qualifications and hence granting grace period to the candidate who secured highest score cannot be said as illegal.

8. The learned counsel for the party respondent addressed the very same argument as that made by the learned Senior Government Pleader.

9. As per Ext.P1 promotion recommendation memo issued by the 2nd respondent National Institute of Speech and Hearing,

the required qualifications for promotion to the post of Assistant Professor are the following:

> "(I) Masters in Computer Science (CS) or equivalent.
> (II) Earned doctorate in CS/disability-related field from a reputed University/Institution.
> (III) Minimum five years of experience in teaching including at least three years in disability field.
> (IV) Level A certification in Indian Sign Language or equivalent (can be relaxed for Deaf and Hard of Hearing)
> (V) UGC NET
> Note:
> 1. In the absence of candidates with doctorate, the requirement (ii) may be provisionally relaxed, provided the candidate has minimum ten years experience in teaching students with disability, preferably in the field of hearing impairment, at the UG/PG level and maximum 5 years time be allowed to earn PhD as required in (ii) above, failing which such candidate will be reverted.
> 2. In the absence of candidates with (v) UGC NET, grace period of two years, i.e. till 2020, can be allowed for existing staff members to acquire UGC NET qualification.''

10. The selection committee constituted by the 3rd respondent conducted the selection process and selected the candidate on the basis of comparative performance evaluation. None of the candidates met qualification No.(II) as evident from the remarks column of Ext.P1. The appellant secured 6.2

composite weighted score and whereas the 4th respondent secured 8.0 composite weighted score. It is true that the 4th respondent had no UGC NET qualification at the time of the selection process. But she was granted two years grace period as provided in note 2 appended to the qualifications prescribed in Ext.P1. The aforementioned period was subsequently extended up to December 2021 due to the outbreak of COVID-19 pandemic as evident from the submission made at the Bar.

11. While considering the fact that none of the candidates had the required five qualifications prescribed in Ext.P1 and also considering the fact that as per Exts.R2(b) and R2(c) the committee conducted three-level performance appraisal system comprising of self-appraisal, peer appraisal and hierarchical appraisal and in that 4th respondent scored highest grade, we find no illegality in the selection process conducted by the appraisal committee constituted by the 3rd respondent and the selection of the 4th respondent for the only vacancy notified to the post of Assistant Professor. The learned Single Judge, rightly appreciated the facts and reached a right finding.

12. Having considered the pleadings and materials on record

and the submissions made at the Bar, we find no ground to interfere with the impugned judgment.

In the result, this writ appeal stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

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