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. 1464 OF 2022

AGAINST THE JUDGMENT DATED 07.06.2022 IN WP(C) NO.4181 OF 2020 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS:

1 SREE SANKARACHARYA UNIVERSITY OF SANSKRIT
REPRESENTED BY THE REGISTRAR, KALADY, ERNAKULAM DISTRICT-683 574.

2 THE SELECTION COMMITTEE FOR THE POST OF PROFESSOR IN ENGLISH DEPARTMENT, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY, ERNAKULAM DISTRICT-683 574, REPRESENTED BY ITS CHAIRMAN (VICE CHANCELLOR).

SRI.DINESH MATHEW J.MURIKAN

RESPONDENT/PETITIONER:

DR. NISHA VENUGOPAL
AGED 57 YEARS, D/O.P.VENUGOPAL, PROFESSOR, DEPARTMENT OF ENGLISH, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY, ERNAKULAM DISTRICT-683 574, RESIDING AT 6/342, FLAT NO.A1, DOCTORS DIAMOND HILL APARTMENTS, IDAMALAYAR IRRIGATION PROJECT ROAD (I.I.P ROAD), EAST NAGAR, NEAR SNDP, ANGAMALY-683 572.

BY ADVS.
SAIJO HASSAN,NAGARAJ NARAYANAN(K/700/1994),BENOJ C AUGUSTIN(K/189/2004.),
ABRAHAM J. KANIYAMPADY(K/3280/2023)
SANGEETH MOHAN(K/3399/2023)
V.P.REJITHA(K/899/2001)
MEERA J. MENON(K/000860/2024)

THIS WRIT APPEAL WAS FINALLY HEARD ON 18.03.2025, THE COURT ON 10.04.2025 PASSED THE FOLLOWING:

JUDGMENT

Muralee Krishna, J.

This is an intra-court appeal filed under Section 5(i) of the Kerala High Court Act, 1958, by the respondents in W.P.(C)No.4181 of 2020 challenging the judgment dated 07.06.2022 passed by the learned Single Judge in that writ petition directing the 1st appellant University to issue appropriate orders granting the benefit of promotion to the respondent in the cadre of Professor with effect from the date on which she had acquired her minimum eligibility qualification in June 2015.

2. The facts that led to the filing of the above writ appeal can be summarised as follows:

The respondent entered the service of 1st appellant University as a Junior Lecturer on 20.08.1998. The post of Junior Lecturer was subsequently redesignated as Lecturer and then as Assistant Professor as per the UGC norms. The respondent was later placed in the cadre of Reader, which was redesignated as Associate Professor on 20.08.2010. The respondent completed three years of service in the cadre of Associate Professor on 20.08.2013. She acquired mandatory scores on Academic

Performance Indicators (API scores) on the Performance Based Appraisal System (PBAS) for the cadre of Professor as per the UGC Regulations on 10.12.2014. She submitted Ext.P2 application dated 10.12.2014 for the purpose of placing her in the cadre of Professor. According to the respondent, the application has to be assessed by the 2nd appellant as per UGC Regulations, 2010. Though the Regulation does not contemplate any scrutiny by the Screening Committee, the 1st appellant University as a practice placed the application before the Screening Committee. By Ext.P4 decision, the Screening Committee refused to recommend the name of the respondent to the Selection Committee for the reason that the respondent had been lacking three publications out of five mandatory publications, since the respondent counted some publications wrongly from her old publications. Subsequently, by the publications listed in Ext.P3 in June 2015, the respondent secured the number of publications that required and fully qualified for promotion to the cadre of Professor. The Screening Committee considered the application of the respondent and took Ext.P5 decision dated 16.04.2018 and recommended to place the application of the respondent before the Selection Committee. In

that decision, the Screening Committee recommended the placement of the respondent with effect from the date of fifth publication. Subsequently, on 11.03.2019, by Ext.P6 decision the Selection Committee recommended to place the respondent in the cadre of Professor with effect from her date of eligibility. By Ext.P7 order dated 22.06.2019 the 1st appellant placed the respondent in the cadre of Professor with effect from 28.09.2017. Aggrieved by Ext.P7, the respondent preferred Ext.P8 representation dated 18.07.2019 before the 1st appellant seeking to place her in the cadre of Professor from her original date of application. However, the 1st appellant by Ext.P9 reply dated 13.08.2019 refused to place the respondent from the date of her original application. Thereafter the respondent approached this Court with the writ petition under Article 226 of the Constitution of India seeking a writ of certiorari to quash Exts.P7 and P9 to the extent it determined the effective date of placement of the respondent in the cadre of the Professor as 28.09.2017 instead of June, 2015. The respondent also sought for a declaration that she is entitled to be placed in the cadre of Professor in English in the 1st appellant University with effect from the date of acquisition of 5th

publication, that is from June 2015 and also a writ of mandamus commanding the appellants to confer the respondent, placement in the cadre of Professor in English with effect from the date of acquisition of her 5th publication.

3. The 1st appellant filed a counter affidavit dated 11.01.2021 producing therewith Exts.R1(a) and R1(b) documents. It is contended in the counter affidavit that the respondent submitted Ext.R1(a) application only on 28.09.2017 producing the articles. Though she had submitted Ext.P2 application, she was not having the required minimum publications as mandated in the UGC Regulations and thus her application was defective. The Screening Committee was constituted as per the provisions of Statute 4 of Chapter III of Sree Sankaracharya University of Sanskrit Statutes, 1997. By virtue of Ext.R1(b) order dated 16.09.2015 issued by the 1st appellant, the respondent has also been part of the Screening Committee and is thus well aware of the statutory procedures. Ext.P2 application submitted by the respondent was rejected as she did not have sufficient publications. As per the UGC Regulations, the respondent is eligible for placement only from the date of the application fulfilling

the criteria and hence the respondent was entitled for placement with effect from 28.09.2017 only. Ext.P2 application was rejected and hence she cannot take a contention that the application was pending.

4. To the counter affidavit, the respondent filed a reply affidavit dated 09.07.2021. After hearing both sides, the learned Single Judge allowed the writ petition as said above.

5. Heard the learned counsel on both sides.

6. The learned counsel for the appellants argued that the interpretation given by the learned Single Judge to sub-clause (b) of Clause 6.3.12 of UGC Regulations, 2010 is illegal. The Court cannot read anything to a statutory provision which is plain and unambiguous. The respondent acquired the required qualification for promotion only in the month of June 2015. Ext.P2 application filed by her before acquiring the required qualification was rejected by Ext.P4 decision of the Screening Committee. Hence Ext.R1(a) application submitted by the respondent on 28.09.2017 cannot be considered as a continuation of Ext.P2 application. Therefore the finding of the learned Single Judge entitling the benefit of promotion to the respondent from June 2015, is

incorrect.

7. On the other hand, the learned counsel for the respondent submitted that Ext.P2 application submitted by the respondent was not rejected by the appellants. Ext.P5 minutes of the Screening Committee recommended her placement in the promotion post with effect from the date on which her fifth publication was published or one year after the date of her previous assessment whichever is later. In such circumstances, no interference is needed to the impugned judgment.

8. The 1st application claiming her placement in the cadre of Professor made by the respondent was Ext.P2 dated 10.12.2014. As per Clause 6.3.12 of Ext.P1 UGC Regulations, 2010, (a) If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility, (b) if, however, the candidates find that he/she fulfils the eligibility conditions at a later date and applies on that date and is successful, his/her promotion will be effected from that date of application fulfilling the criteria, (c) of the candidate does not succeed in the first assessment, but succeeds in the eventual

assessment, his/her promotion will be deemed to be from the later date of successful assessment.

9. On the date of 1st application in the year 2014, the respondent was not qualified for promotion since a sufficient number of publications as per UGC Regulations 2010 was not there in her account. Therefore, as per Ext.P4 decision of the Screening Committee her claim for promotion was rejected. She acquired the qualification in the month of June 2015 by publishing her fifth publication. However, she chose to submit an application for promotion only on 28.09.2017 by Ext.R1(a). The said application was scrutinised by the Screening Committee and recommended her promotion by Ext.P5. The Selection Committee also satisfied with the qualification of the respondent and decided to recommend the respondent in the cadre of Professor in English by Ext.P6 minutes dated 11.03.2019. By Ext.P7, the University accorded sanction and notified the placement of the respondent in the cadre of Professor with effect from 28.09.2017. The reading of Clause 6.3.12 (b) makes it clear that if a candidate fulfils the eligibility conditions at a later date, his or her promotion will be effected from the date of application fulfilling the criteria. If he or

she is entitled for promotion from the date of acquiring the minimum eligibility period, then there need not be three clauses in Clause 6.3.12. Clause (a) meets the situation when the candidate applies for promotion on completion of minimum eligibility period and is successful. In that case, the date of promotion will be from the date of the minimum period of eligibility. Clause (c) makes it further clear that the candidate who does not succeed in the first assessment as that of the respondent herein, but succeeds in the eventual assessment, his or her promotion will be deemed to be from the later date of successful assessment. By going through the literal meaning of Clause 6.3.12 of Ext.P1 Regulations, one cannot stretch it to the extent of giving the benefit of clause (b) from the date of acquisition of minimum qualification.

10. Having applied for promotion in the year 2014, before acquiring the minimum qualification, the respondent would be aware of the necessity for filing a fresh application on acquiring the qualification. It is the duty of the respondent to seek promotion on acquiring the qualification, since the University or the College would not be aware of the acquisition of qualification

by the respondent. Having submitted a belated application, the respondent now cannot give a go-by to her own laches and contend that the University ought to have granted her promotion against Clause 6.3.12. The learned Single Judge went wrong in properly appreciating the literal interpretation of Clause 6.3.12 of Ext.P1. The respondent is entitled for promotion only in terms of Clause 6.3.12 of Ext.P1, i.e., from the date of her application after acquisition of the qualification as provided under clause (b) of that Regulation. In such circumstances, the impugned judgment is liable to be set aside.

In the result, the writ appeal is allowed by setting aside the impugned judgment dated 07.06.2022 in W.P.(C)No. 4181 of 2020 and the writ petition stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks