

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 23RD DAY OF FEBRUARY 2022 / 4TH PHALGUNA, 1943

WP(C) NO. 15166 OF 2020

PETITIONER/S:

- 1 DR.BAABY JOB
 AGED 40 YEARS
 S/O. C.JOB GEORGE,
 ASSISTANT PROFESSOR,
 DEPARTMENT OF ZOOLOGY,
 CMS COLLEGE, KOTTAYAM-686 001,
 RESIDING AT CHIRIYANKANDATH HOUSE, A6, MAITRI PARK,
 AYYANTHOLE, THRISSUR-680 003

- 2 DR.SHIJA GRACE,
 D/O. REV.JOHN MATHEW,
 ASSISTANT PROFESSOR,
 DEPARTMENT OF HINDI, CMS COLLEGE,
 KOTTAYAM-686 001,
 RESIDING AT ELANJIMATTOOM (H),
 CHIRANIRAPPEL, THIRUVAMPADY P.O.,
 NJIZHOOR VIA KOTTAYAM-686 912

- 3 DR.BIJU JOSEPH
 AGED 41 YEARS
 S/O JOSEPH T.O
 ASSISTANT PROFESSOR,
 DEPARTMENT OF CHEMISTRY,
 CMS COLLEGE, KOTTAYAM-686 001,
 RESIDING AT THOOMPILPUTHENPURAYIL HOUSE,
 KALLARA P.O., KOTTAYAM-686 611

- 4 DR.GIGI GEORGE,
 AGED 39 YEARS
 S/O. GEORGE SKARIAH,
 ASSISTANT PROFESSOR,
 DEPARTMENT OF CHEMISTRY,
 CMS COLLEGE, KOTTAYAM-686 001,
 RESIDING AT THYKOOTTATHIL HOUSE, PUTHENPEEDIKA,
 OMALLOOR P.O., PATHANAMTHITTA-689 647

BY ADVS.
S.MUHAMMED HANEEFF
SRI.M.H.ASIF ALI

RESPONDENT/S:

- 1 THE PRINCIPAL
CMS COLLEGE, KOTTAYAM-686 001
- 2 DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, KOTTAYAM
OFFICE OF THE DIRECTOR OF COLLEGIATE EDUCATION,
PALACE ROAD, KOTTAYAM-686 001
- 3 DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM
OFFICE OF THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, PALAYAM, THIRUVANANTHAPURAM-695 033
- 4 STATE OF KERALA,
REP BY ITS SECRETARY TO THE GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001

BY ADVS.
SRI.ABRAHAM GEORGE JACOB
SRI.C.MURALIKRISHNAN (PAYYANUR)
SMT ANIMA M GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23.02.2022, ALONG WITH WP(C).15222/2020, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

JUDGMENT

Instant writ petition is filed seeking the following reliefs:-

- (i) Call for the records leading to Exts. P8 to P11 and quash the same by issuing a writ of certiorari or any other appropriate writ order or direction.
- (ii) Issue a writ of mandamus or any other appropriate writ order or direction declaring that Clause 6.1.7 of Ext G.O(P) No. 18/2019/HEDN dt. 29.06.2019 [Ext P12 G.O] is void and inoperative and that the petitioners are eligible and entitled to get five non compounded advance increments as provided in Clause 9.1 of the UGC Regulations 2010 [Ext P5] and Clause 19.1 (i) of the UGC Regulations 2018 [Ext P7]
- (iii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 4th respondent to grant and disburse five non compounded advance increments to the petitioner as provided in Clause 19.1 (i) of the UGC Regulations 2018 [Ext P7], within a time frame fixed by this Hon'ble Court.
- (iv) Issue a writ of mandamus or any other appropriate writ, order or directing the respondents 2 to 5 to refix the petitioners' salary after sanctioning five non compounded advance increments and disburse the same with arrears, within the time frame fixed by Hon'ble Court.

2. Sri. Asif Ali M.H., the learned counsel appearing for the petitioners submits that the petitioners had approached this Court being aggrieved by Exts.P8 to P11 as per which, the petitioners were denied the five advance increments to which they were entitled to as per the UGC Regulations, 2010. It

is contended that during the pendency of the writ petition, the Government by Ext.P13 Government order dated 23.01.2021 vide G.O.(P.) No. 3/2021/HEDN has modified Ext.P12 and has clarified that advance increments shall be admissible to faculties who obtained PhD/MPhil degree prior to 17.7.2018 and appointed prior to the said date. It is contended that insofar as the petitioners are concerned, they had all obtained PhD Degrees and were appointed prior to 17.7.2018 and they would thus become eligible for advance increments as per Ext.P13 Government Order. According to the learned counsel, in that view of the matter, this writ petition can be disposed of directing the respondents to refix the petitioners' salary in tune with G.O.(P.) No. 3/2021/HEDN dated 23.01.2021 and to disburse the entire arrears due to them.

3. By order dated 17.2.2022, the learned Government Pleader was directed to get instructions with regard to the applicability of the modified Government Order.

4. Ms. M. Anima, the learned government pleader submitted that the grievance of the petitioner can be considered in the light of Ext.P13 Government Order.

5. Having regard to the facts and circumstances and the submissions made across the bar, there will be a direction to the respondents 3 and 4 to initiate measures to refix the salary of the petitioners in tune with Ext.P13 G.O.(P.) No. 3/2021/HEDN dated 23.01.2021 and to disburse the arrears, if any, due to them, expeditiously, in any event, within a period of three months from the date of receipt of a copy of this judgment.

This writ petition is disposed of as above.

Sd/-
RAJA VIJAYARAGHAVAN V
JUDGE

APPENDIX OF WP(C) 15166/2020

PETITIONER EXHIBITS

EXHIBIT P1	A TRUE COPY OF THE APPOINTMENT ORDER OF THE 1ST PETITIONER DT 03.08.16 ISSUED BY THE MANAGER, CMS COLLEGE, KOTTAYAM
EXHIBIT P2	A TRUE COPY OF THE APPOINTMENT ORDER OF THE 2ND PETITIONER DT 10.08.16 ISSUED BY THE MANAGER, CMS COLLEGE, KOTTAYAM
EXHIBIT P3	A TRUE COPY OF THE APPOINTMENT ORDER OF THE 3RD PETITIONER DT 04.08.16 ISSUED BY THE MANAGER, CMS COLLEGE, KOTTAYAM
EXHIBIT P4	A TRUE COPY OF THE APPOINTMENT ORDER OF THE 4TH PETITIONER DT 05.08.16 ISSUED BY THE MANAGER, CMS COLLEGE, KOTTAYAM
EXHIBIT P5	A TRUE COPY OF THE RELEVANT EXTRACTS OF THE UGC REGULATIONS 2010
EXHIBIT P6	A TRUE COPY OF RELEVANT EXTRACTS OF G.O(P) NO 58/2010/H.EDN DT 27.03.2010
EXHIBIT P7	A TRUE COPY OF THE RELEVANT EXTRACTS OF THE UGC REGULATIONS 2018
EXHIBIT P8	A TRUE COPY OF THE COMMUNICATIONS BEARING NOS F1-6040/19 DT 24.07.2019 ISSUED BY THE 2ND RESPONDENT
EXHIBIT P9	A TRUE COPY OF THE COMMUNICATIONS BEARING NOS F1-6041/19 DT 24.07.2019 ISSUED BY THE 2ND RESPONDENT

- EXHIBIT P10 A TRUE COPY OF THE COMMUNICATIONS BEARING NOS
F1-6043/19 DT 24.07.2019 ISSUED BY THE 2ND
RESPONDENT
- EXHIBIT P11 A TRUE COPY OF THE COMMUNICATIONS BEARING NOS
F1-6043/19 DT 11.07.2019 ISSUED BY THE 2ND
RESPONDENT
- EXHIBIT P12 A TRUE COPY OF G.O(P) NO.18/2019/HEDN DT
29.06.2019 ISSUED BY THE 4TH RESPONDENT
- EXHIBIT P13 A TRUE COPY OF THE ORDER BEARING G.P.(P) NO.
3/2021/HEDN DT. 23.01.2021 ISSUED BY THE 4TH
RESPONDENT.