

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

THURSDAY, THE 25TH DAY OF MARCH 2021 / 4TH CHAITHRA, 1943

WP(C).No.27806 OF 2020(A)

PETITIONER/S:

- 1 DR. JOBY THOMAS K.
AGED 55 YEARS
S/O. K.O. THOMAS, ASSOCIATE PROFESSOR, DEPARTMENT OF CHEMISTRY,
ST. THOMAS COLLEGE (AUTONOMOUS) THRISSUR, RESIDING AT KAKKASSERY
HOUSE, VELUKKARAN LANE, EAST FOR THRISSUR-680 005.
- 2 DR. MUHAMMEDALI T,
AGED 52 YEARS
S/O. MAMMY T, ASSOCIATE PROFESSOR, DEPARTMENT OF HISTORY, FAROOK
COLLEGE P.O, KOZHIKODE DISTRICT, RESIDING AT JANOOBI, VALIYATHIL
ROAD, FAROOK COLLEGE P.O, KOZHIKODE DISTRICT-673 632
- 3 DR. CHERIAN JOHN,
AGED 53 YEARS
S/O. LATE K.C. JOHN, ASSOCIATE PROFESSOR, DEPARTMENT OF ENGLISH,
MAR IVANIOS COLLEGE (AUTONOMOUS), NALANCHIRA, THIRUVANANTHAPURAM,
RESIDING AT KALEEKAL, KP-2 2/71/1, CONVENT LANE, MUNDAIKONAM
ROAD, MUTTADA P.O., THIRUVANANTHAPURAM-695 025.
- 4 DR. JAYASREE S,
AGED 53 YEARS
W/O. DR. P.K. THULASIDAS, ASSOCIATE PROFESSOR AND HEAD,
DEPARTMENT OF ZOOLOGY, MERCY COLLEGE, PALAKKAD RESIDING AT
PUTHENPURAYIL, DOOR NO. XXI/389-A, DREAM NAGAR, KAMPANIPPADI,
KANNARA P.O, THRISSUR-680652

BY ADVS.
SRI.ARUN.B.VARGHESE
SMT. AISWARYA V.S.

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY, DEPARTMENT OF HIGHER
EDUCATION DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 2 THE DIRECTOR,
DIRECTORATE OF COLLEGIATE EDUCATION, VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 033.
- 3 CALICUT UNIVERSITY
REPRESENTED BY ITS REGISTRAR, TIRUR-CALICUT ROAD, THENHIPALAM,
MALAPPURAM DISTRICT, P IN-673 635
- 4 KERALA UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, PALAYAM,
THIRUVANANTHAPURAM-695 034

5 UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY, BAHADUR SHAH ZAFAR MARG, NEW
DELHI-110 002

R4 BY SHRI.THOMAS ABRAHAM, SC, UNIVERSITY OF KERALA

OTHER PRESENT:

SRI P C SASIDHARAN SC GP SRI B HARISH KUMAR SRI S
KRISHNAMOORTHY CGC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25.03.2021, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of March 2021

Petitioners, 4 (four) in numbers, through the instant writ petition have sought their vindication of grievance on account of the stand of the respondents denying the promotion to the post of Professors though incorporated and in existence in the UGC regulations 2018. All the petitioners have been working as Associate Professors in various fields and colleges.

2. Learned counsel appearing on behalf of the petitioners submitted that by virtue of the provisions of Section 26 of the University Grants Commission Act 1956 (UGC Act), the UGC can frame Regulations. The regulation which is now in force ie., 2018 was notified with effect from 18.7.2018. The respondent No.1 issued various orders implementing the revised University Grants scheme for revision of pay scale in the State of Kerala as evidenced from Ext.P5 which only covers the teachers in the University, affiliated colleges but did not take care of the Associate

Professor working in the aided colleges. Similarly placed aided college teacher qualified to get promoted as Professor had approached this Court and this Court, vide order dated 20.12.2017 in W.P.(C) No.36084/2017, directed the Government to take effective steps to implement the promotion as Professor, Ext.P8. It was submitted that during the pendency of this writ petition, the grievance as expressed has been truncated by virtue of a Government Order dated 20.2.2021, Ext.P11 whereby the plea for sanctioning of the post of Professor under the Career Advancement Promotion has been considered and only action which is to take effect is, its implementation by respondent No.2 to 4.

3. Learned counsel appearing on behalf of the 4th respondent submitted that it was the only role of the Government to take action thereon but in view of Ext.P11, the University would not be averse in taking a call on consideration of the matter as indicated above. Similar is the plea of the learned Government Pleader, representing respondent Nos.1 and 2.

4. I have heard the learned counsel for the parties,

appraised the paper book. Applicability of 2018 UGC regulation with effect from 18.7.2018 is not in controversy. It is a matter of fact that vide Ext.P5, respondent No.1 had considered teachers working in the University in affiliated colleges for revision of pay scales but as far as the petitioners working as Associate Professor and seeking a career advancement promotion as Professors by re-designation, which would tantamount, to upgradation of their pay scale has not been taken care of. As noticed above during the interregnum, an order Ext.P11 dated 20.12.2021 has been issued by the 1st respondent. The same reads thus:

HIGHER EDUCATION (C) DEPARTMENT

G.O.(P)No.9/2021/HEDN

Dated, Thiruvananthapuram 20/02/2021

Read 1. Notification No.E1-2/2017(EC/PS) dated 18.07.2018 of University Grants Commission

2.GO(P)No. 18/2019/HEDN dated 29/06/2019,

3. GO(P)No.28/2019/HEDN dated 29/09/2019,

4. Letter No. UGC CELL 3/36352/2020/DCE dated 01/12/2020 from the Director of Collegiate Education

ORDER

The Director of Collegiate Education vide letter read as 4th paper above has submitted proposal for sanctioning Professor posts in Colleges by re-

designation with effect from 18.07.2018, the date of effect of UGC Regulations, 2018

Government have examined the matter in detail. The salary, service and promotions of the College (both Government and Aided) and University teachers are regulated by the Notification read as 1st paper above and the Government Orders read as 2nd and 3rd paper above.

The Promotions envisaged for the College and University teachers as per the above mentioned Orders and Regulations is Career Advancement Promotion (CAP) and not cadre promotion, nor ratio promotion.

The eligibility criterion, process, procedure and policy by which the placement to the higher academic position is to be made has been vividly given in the UGC Regulations notified vide No. F.1-2/2017(EC/PS) dated 18th July, 2018. The above mentioned Government Orders have ratified and effected the UGC Regulations, 2018 in this regard.

So it is clear that Career Advancement Promotion is the norm as Such re- designation, as proposed, has not been envisaged anywhere in the regulations.

Such Career Advancement Promotion as envisaged in the Regulations don't warrant any post creation since the scheme is not for cadre promotion.

In the circumstances Government are pleased to provide Career Advancement Promotion in Colleges, both Government and Aided, as envisaged in the Regulations, strictly in accordance with the norms, standards and procedures set out in the UGC Regulations, 2018.

On perusal of the aforementioned order, I am of the view that more or less the grievance of the petitioners stands redressed except that its implementation. Accordingly, I dispose of the writ petition by issuing directions to the

respondent Nos.2 to 4 to take a call on the order Ext.P11 and award the benefits to the petitioners as expeditiously as possible, preferably within a period of three months from the date of receipt of a certified copy of this judgment.

Sd/-

AMIT RAWAL

sab

JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF RELEVANT PORTION OF MINIMUM QUALIFICATIONS FOR APPOINTMENT OF TEACHERS AND OTHER ACADEMIC STAFF IN UNIVERSITIES AND COLLEGES AND MEASURES FOR THE MAINTENANCE OF STANDARDS IN HIGHER EDUCATION 2010 ISSUED BY THE 5TH RESPONDENT.
EXHIBIT P2	TRUE COPY OF G.O(P) NO. 58/2010/H.EDN. DATED 27.03.2020 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P3	TRUE COPY OF G.O(P)NO. 392/2020/H.EDN DATED 10.12.2010 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P4	TRUE COPY OF UGC REGULATIONS ON MINIMUM QUALIFICATIONS FOR APPOINTMENT OF TEACHERS AND OTHER ACADEMIC STAFF IN UNIVERSITIES AND COLLEGES AND MEASURES FOR THE MAINTENANCE OF STANDARDS IN HIGHER EDUCATION 2018 ISSUED BY THE 5TH RESPONDENT.
EXHIBIT P5	TRUE COPY OF G.O(P) NO. 18/2019/HEDN DATED 29.06.2019 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P6	TRUE COPY OF G.O(P)NO. 28/2019/H.EDN. DATED 29.09.2019 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P7	TRUE COPY OF THE ORDER NO. 233170/GA-II-SPECIAL CELL II ASST. 1/2019/ADMN DATED 01.11.2020 ISSUED BY THE 3RD RESPONDENT TO THE 4TH WRIT PETITIONER.
EXHIBIT P8	TRUE COPY OF THE JUDGMENT DATED 20.12.2017 IN W.P.(C)NO. 36084/2017 OF THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P9	TRUE COPY OF THE JUDGMENT DATED 07.02.2020 IN W.A. NO. 2227/2018 OF THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P10	TRUE COPY OF THE ORDER DATED 23.09.2020 IN SLP(CIVIL) NO. 10523/2020 OF THE HON'BLE SUPREME COURT OF INDIA.
EXHIBIT P11	TRUE COPY OF G.O.(P) No.9/2021/HEDN DATED 20.2.2021 ISSUED BY THE 1ST RESPONDENT