

(2025) 06 KL CK 0869
In the High Court Of Kerala
Case No : Writ Appeal No. 72 Of 2025

Central University Of Kerala

APPELLANT

Vs

Dr. Taru. S Pawar

RESPONDENT

Date of Decision : 09-06-2025

Acts Referred:

Kerala High Court Act, 1958 — Section 5(i)

Citation : (2025) 06 KL CK 0869

Hon'ble Judges : Anil K.Narendran, J;P.V.Balakrishnan, J

Bench : Division Bench

Advocate : T.Ramprasad Unni, K.Ramakumar, V.Gangadharan, S. P. Aravindakshan Pillay, Joshi N.Thomas, N.Santha, V.Varghese, Peter Jose Christo, S.A.Anand, K.N.Remya, L.Annapoorna, Fairuz M., Aswathy N, S P Aravindakshan Pillay

Final Decision : Allowed

Judgement

P.V.Balakrishnan,J

1. Respondents 1 and 2 in W.P.(C)No.11023 of 2024, aggrieved by the judgment dated 24.10.2024 of the learned Single Judge, has preferred this intra-court appeal under Section 5(i) of the Kerala High Court Act, 1958.

2. The writ petition has been filed by the 1st respondent herein/petitioner seeking the following reliefs:

"i) Issue a writ of certiorari or other appropriate writ calling for records leading to Exts.P5 and P8 and quashing the same.

ii) Issue a writ of Mandamus or other appropriate writ or direction or order directing the 2nd Respondent to appoint the Petitioner as Dean of the School of Languages and Comparative Literature of the 1st Respondent University.

iii) Declare that Petitioner is entitled to be appointed as Dean of School of Languages and Comparative Literature of the 1st Respondent University after

completion of term of Dr.V. Rajeev.”

3. Ext.P5 is the order dated 31.07.2023 appointing the 2nd respondent herein as the Dean in the School of Languages and Comparative Literature in the Central University of Kerala for a period of three years, with effect from 01.08.2023 and Ext.P8 is an order rejecting Ext.P7 representation made by the 1st respondent herein alleging caste discrimination in appointing the 2nd respondent as the Dean.

4. By the judgment dated 24.10.2024, a learned Single Judge allowed the writ petition, directing the 2nd appellant to reconsider Ext.P5 and take a fresh decision after hearing all the stake holders. The said direction was passed by the learned Single Judge after coming to a conclusion that there are no justifiable reasons for denying the opportunity to the 1st respondent herein/petitioner for being appointed as a Dean, since the 2nd respondent herein/3rd respondent has already been provided such an opportunity while working as an Associate Professor. The relevant portion of the judgment reads as follows:

“On carefully going through the same, it is evident that it contemplates a rotation among the Professors in the order of seniority for a period of three years. The proviso also contemplates a situation that, when there is only one Professor or no Professor in a school, it shall be open for the University to appoint Associate Professors in the School by rotation in the order of seniority. On carefully going through the provision referred to above, it can be seen that the purpose behind the rotation contemplated therein is to provide an opportunity to the Professors to act as Dean (Associate Professor in certain circumstances). As far as the 3rd respondent in this case is concerned, he had already availed the said opportunity, while he was working as the Associate Professor, in view of the fact that, there existed certain circumstances as contemplated in the proviso to clause 5. Thus, the 3rd respondent had already availed the said opportunity and had completed a full tenure as envisaged in Clause 5. The reasons stated by the University that, the term of appointment, of the 3rd respondent pertaining to the period from 13.03.2012 to 20.03.2015 in a different capacity, cannot be treated as a valid reason in view of the fact that, irrespective of the nature of the post the candidate was holding at the time of appointment, the nature of the duties to be carried out as a Dean are the same. Therefore, when the purposive interpretation is given to the stipulations contained Clause 5, it can only be understood to mean that, the same was only intended to give rotation to the Professors in the school at the first instance and in the absence of Professors, an opportunity to Associate Professors. The specific case of the petitioner is that, despite the fact that, the 3rd respondent has already acted as Dean for a complete term while working as Associate Professor, a further opportunity was granted to him merely because of the reason that, by the time next term arose, he became a Professor. As mentioned above, in both occasions, the duty to be performed by the incumbent is that of a Dean, which has nothing to do with the post which the incumbent held at the time of the

appointment. Thus, to ensure the implementation of Clause 5(1) in letter and spirit, the rotation has to be effected among the Professors in the order of seniority; however, while providing such an opportunity, the persons who already occupied the post have to be excluded, otherwise the purpose itself would be defeated. Therefore, I do not find any justifiable reason, in denying the said opportunity to the petitioner, if he is eligible to get the appointment as Dean, as per the seniority among the Professors.”

5. It is challenging this judgment, this writ appeal has been filed.

6. Heard Adv.T.Ramaprasad Unni, learned Standing Counsel for the Central University-appellants, Adv. S.P. Aravindakshan Pillai the learned counsel for the 2nd respondent and Adv.V. Gangadharan, the learned counsel for the 1st respondent.

7. The learned Standing Counsel for the appellants contended that the impugned judgment came to be passed by the learned Single Judge on a misinterpretation of clause 5(1) of the Statutes (Second Schedule) of the Central Universities Act, 2009. He submitted that the afore clause provides for rotation in the appointment of Deans on the basis of seniority and its former part contemplates a situation where more than one Professors are available in the school for appointment. The latter part of clause 5(1), i.e., the proviso, is applicable only in situations where there is no professor or where there is only one professor in the school. He contended that at the time when the 2nd respondent herein was appointed as a Dean in 2012, there were no Professors in the Department concerned and it is based on the seniority among the Associates Professors then available, the appointment was made as per the proviso to clause 5(1). He argued that Ext.P5 order was passed by applying clause 5(1) and seniority among the Professors available at that time and, therefore, there is no illegality in it. Hence, according to the learned Standing Counsel, the impugned judgment of the learned Single Judge cannot be sustained in law.

8. Per contra, the learned counsel for the 1st respondent herein contended that Ext.P5 order cannot be sustained since the 2nd respondent herein was already appointed as Dean and had performed as such in the University for about three years. He submitted that since, clause 5(1) provides for rotation among the professors in the appointment of Dean and since the 2nd respondent herein has already been granted appointment, he cannot again be appointed as a Dean. According to the learned counsel, the purpose, which is sought to be attained by clause 5(1), is to provide an opportunity to all the competent persons and if Exhibit P5 is allowed to be sustained, the purpose will be defeated. Hence, he prayed that this appeal may be dismissed.

9. The learned counsel for the 2nd respondent supported the contentions raised by the appellants.

10. In order to appreciate the rival contentions in a proper perspective, we feel it apt to extract clause 5 of the Second Schedule to the Statutes of the University,

which reads as follows:

"5. Deans of Schools.-(1) Every Dean of School shall be appointed by the Vice-Chancellor from amongst the Professors in the School by rotation in order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a School, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Associate Professors in the School by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-five years shall cease to hold office as such.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Associate Professor, as the case may be, in the School.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof."

11. Going by clause 5(1) of the Second Schedule to the Statutes, it can be seen that it contains two parts, the former dealing with appointment of Deans from amongst Professors in the school and the latter proviso dealing with appointment of Deans in a situation where there is only one Professor or no Professor in the school. From a reading of the former part of clause 5(1), it can be seen that it speaks about the appointment of a Dean from the Professors in the school, if more than one are available, by rotation, on the basis of seniority. On the other hand, the proviso to clause 5(1) speaks about a situation when there is only one Professor or no Professor available in the school.

12. In the present case, it is an admitted fact that the 2nd respondent herein was appointed as a Dean of the school on 13.03.2012 and he had continued in that post till his term expired on 20.03.2015. But, it is also an admitted fact that the 2nd respondent herein was working as an Associate Professor at that time and he was so appointed, since there were no Professors available for consideration in the Department concerned. If that be so, it is very clear that it is by invoking the proviso to clause 5(1) the appointment was so made. But, the circumstance, in which Ext.P5 order is issued, is entirely different from the one existing at the time of the initial appointment of the 2nd respondent as a Dean. Ext.P5 order has been passed by making a selection from amongst the Professors available (which admittedly was more than one at that time), on the basis of seniority as per clause 5(1). If so, it cannot be stated that merely

because of the fact that the 2nd respondent came to be appointed as a Dean during 2012, he would lose his opportunity of being appointed again, as found by the learned Single Judge. Reaching such a conclusion, will, undoubtedly, do violence to the provision, which is clear and unambiguous. If such an interpretation as is given by the learned Single Judge is accepted, there may arise situations, wherein an Associate Professor may become a Dean solely because the Professors available in the school have already adorned the post of Dean some time before. Ergo, for the reasons stated above, we find that the impugned judgment passed by the learned Single Judge cannot be sustained and same is liable to be set aside.

In the result, this appeal is allowed and the judgment dated 24.10.2024 in W.P. (C)No.11023 of 2024 passed by the learned Single Judge is set aside. Consequently, the writ petition will stand dismissed.