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**(1996) 03 KL CK 0002**  
**In the High Court Of Kerala**  
**Case No : O.P. No's. 33 of 1996 D**

Cherian Mathew

APPELLANT

Vs

The Principal, S.B. College

RESPONDENT

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**Date of Decision :** 25-03-1996

**Acts Referred:**

Kerala University First Ordinances, 1978 — Ordinance 3  
Kerala University First Regulations — Regulation 6

**Citation :** (1996) 03 KL CK 0002

**Hon'ble Judges :** K. Sreedharan, J;J.B. Koshy, J

**Bench :** Division Bench

**Advocate :** Babu Varghese, in O.P. 33/96 D, for the Appellant; Thomas Mathew Nellimootil, for 3rd Respondent and P.K. Behanan, Government Pleader for Respondents 4 and 5, for the Respondent

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## Judgement

K. Sreedharan, J.—When these matters came up for final hearing, counsel appearing on either side submitted that this Court need not go into the individual claims of the Petitioners in these matters and it is sufficient for this Court to lay down the principles under which their salary is to be disbursed by the Director of the Collegiate Education. It was submitted that Collegiate Director should examine the issues in the light of the principles to be stated by this Court and salary disbursed. If he entertains any doubt regarding the propriety of the decision rendered by the University giving approval to the teacher, the issue should be taken up with the University and the University's decision thereon should be binding on the Director.

2. As agreed to by counsel appearing on either side and the learned Government Pleader, we are disposing of these Original Petitions stating the law on the basis of which appointments in Private Colleges are to be effected, the appointments are to be approved by the University and the law governing the disbursement of their salary by the Director of Collegiate Education. Accordingly, we are disposing of all the matters by this common judgment.

3. Kerala University First Ordinances, 1978 inter alia provide for assessment of work load and pattern of teaching staff in Arts and Science Colleges. Chapter XIII of the First Ordinance deals with the said issue. Statute 3 is concerned with the procedure for calculating number of teachers required for a department. In the case of Mahatma Gandhi University, it is conceded before us, no separate Ordinance has been promulgated and the Kerala University First Ordinance govern all similar issues. Likewise the Calicut University First Ordinance, which is in pari materia with that contained in Kerala University First Ordinance controls the procedure for calculating number of teachers required for a department.

4. On the basis of the work load calculated in terms of Ordinance 3 in the Kerala University First Ordinance, teachers are allowed to be appointed in colleges run by private management. The appointments so made in conformity with the work load assessed by the University are approved by the concerned University. To the teacher whose appointments is so approved, salary should be paid by the Government through Director of Collegiate Education. In other words, when a teacher is appointed by private management in terms of the provision contained in the Kerala University First Ordinance or the Calicut University First Ordinance as the case may be, his salary has to be disbursed by the Government if that appointment has been approved by the concerned University. In case the Director of Collegiate Education doubts the propriety of the appointment of a teacher in the sense that the work load did not require the appointment of such a teacher, the issue will have to be taken up by him with the University. The University then has to re-examine the entire issue and to take a decision on the issue as to whether the appointment was proper or not. When the University takes a decision on this aspect, that decision will be binding on the Government.

5. No provision of the Universities Act, First Statutes, Ordinances or Regulations in force enables the Government to sit in judgment over the decision arrived at by the University regarding the number of teachers to be appointed in a Department in a college run by a private management. In the absence of such a provision, the Government is not entitled to impose a condition that prior approval from the Director of Collegiate Education is needed for a management to appoint a teacher in its staff.

6. Procedure for calculating number of teachers required for a department as per Third Ordinance in Chapter XIII of the Kerala University First Ordinance, prior to its amendment on 13th September 1993 is in the following terms:

(i) The total number of lecture hours per week in the case of Art subjects and the total number of lecture hours and supervision periods of practical classes in the case of Science subjects shall be calculated first on the basis of the hours prescribed for the concerned subject in the Syllabus for the respective courses and the strength of students.

(ii) From the total hours calculated above, the work load of the Head of the Department and if he happens to be also the Principal, that of the Principal, shall

be deducted.

(iii) The balance hours so arrived at shall be divided by X-1 where "X" stands for the normal hours of lecture work prescribed for a lecturer in the case of Arts subjects, namely 14 and the normal hours of Lecture work and supervision of practical classes prescribed for a Lecturer in the case of Science subjects, namely 15.

(iv) After the Division as prescribed at (ii) above, if there is any balance of hours, one more hour of work a week shall be assigned to each teacher including the Professor. If there is still any balance of hours left, a proposal for the creation of an additional post may be made and on the appointment of a teacher in the additional post sanctioned by the University the work shall be distributed among all teachers of the Department.

Note.-(1) In exceptional cases where the minimum work load of 13 hours in the case of Art subjects and 14 in the case of Science subjects cannot be maintained, exemption from the minimum work load may be granted, if the work load cannot otherwise be adjusted.

(2) In the case of subjects like Syriac, Arabic, Latin, Law for B. Com., etc. where the total work load is below the minimum, only a part-time teacher shall be appointed.

When a teacher is appointed in accordance with the work load assessed in the above terms, the said appointment has to be honoured by the Director of Collegiate Education and salary disbursed, if the said appointment is approved by the University. In case the Director doubts the correctness of that appointment, he will be at liberty to take up the matter with the University. When such a step is resorted to by the Director, the University has to examine the issue afresh and take a decision thereon. The decision so taken by the University as seen from the provisions of the Ordinance, Statute and Act, is binding on the Director. In such a situation, the Director will have no other course than to disburse the salary of the teacher whose appointment is approved by the University.

7. As stated earlier, Chapter XIII of the Ordinance underwent major amendment with effect from 13th September 1993. Procedure for calculating the number of teachers required for a department as per the amended provision is:

(i) Total hours of teaching work per week (lecture/practical) shall be 25. Apart from the above there shall be provision for tutorials, tests, exams, field work and extra curricular activities.

The total number of lecture hours per week and supervision periods of practical classes for science subjects shall be calculated first on the basis of hours prescribed for the concerned subject in the syllabus and strength of students.

From the total hours so calculated the work load of Principal (if the Principal belongs to that Department) and the Head of the Department shall be deducted.

The balance hours so arrived at shall be divided by the maximum work load of a teacher after deduction as prescribed above. If there is balance of hours exceeding six hours a proposal for the creation of an additional post may be made and with the sanction of the University an additional post can be created. The work load shall be distributed equally among all the teachers:

Provided that in the case of Law for B. Com. where the total work load is less than 7 hours only a part-time teacher shall be appointed as it is not covered under the U.G.C. Scheme.

(ii) Additional post will be sanctioned only if there are periods above six. In solitary cases where a teacher will be burdened with 19 periods or above a part-time post will be sanctioned. The remuneration for the part-time post in Colleges will be as in the case of part-time law teachers appointed on contract basis.

Since this amendment was brought into force with effect from 13th September 1993, appointments of teachers in Colleges belonging to private management should conform to the above conditions. Only if the appointments satisfy the above conditions, can the appointment be approved by the University and salary disbursed by the Director of Collegiate Education. In the case of such appointments also if the Director entertains any doubt regarding the compliance with the requirements, matter can be referred back to the University. University will have to examine the issue in detail and to give reply to the Director of Collegiate Education. The decision taken by the University will be binding on the Director. Depending on the decision, the salary of the teacher will have to be disbursed.

8. In the light of the above statutory provisions, we direct the concerned Deputy Director of Collegiate Education/Director of Collegiate Education to take up the issue regarding the appointment of the Petitioners with the concerned Universities and to act in terms of their decisions. In case the appointment of these Petitioners herein happened to be prior to 13th September 1993 and was in conformity with the Ordinance 3 in Chapter XIII of the Kerala University First Ordinance 1978, teacher should be paid salary as per law. If the appointment happens to be subsequent to 13th September 1993, the teacher will be entitled to salary if it is in conformity with Regulations 6 of Chapter XIII which was amended with effect from that date.

9. Deputy Director of Collegiate Education/Director of Collegiate Education will examine the rights of the Petitioners as Lecturers in the light of the provisions stated hereinbefore. In case it is found that their appointments are in conformity with the statutory provisions, their salary should be disbursed as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment.

Original Petitions and Writ Appeal are disposed of in the above terms.