
(2000) 03 KL CK 0062
In the High Court Of Kerala
Case No : W.A. No. 739 of 1999

Director of Collegiate Education

APPELLANT

Vs

Dr. G. Santhakumary and Others

RESPONDENT

Date of Decision : 22-03-2000

Acts Referred:

University Grants Commission Scheme, 1986 — Clause 4.04

Citation : (2000) 1 KLJ 934

Hon'ble Judges : K.S. Radhakrishnan, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : C.T. Ravikumar, for the Appellant; R. Padmaraj and George Poonthottam, for the Respondent

Final Decision : Dismissed

Judgement

Pasayat, C.J.—In this appeal filed by State, challenge is directed against judgment of learned single Judge holding that respondent (hereinafter referred to as employee) is entitled to three advance increments with attendant seniority and service benefits retrospectively with effect from 1-1-1986. Factual position is undisputed and is as follows: Employee, after having acquired M.A. degree, joined St.Teresa's College, Ernakulam on 15-6-1965 as Lecturer in Hindi. Subsequently, in 1980, she got her Ph.D. in Hindi from Kerala University. Syndicate of Mahatma Gandhi University (hereinafter referred to as University) approved her as supervising teacher/approved guide for guiding the students/scholars leading to the award of Ph.D. degree from the University. Fifth Pay Commission of the State made certain recommendations which were accepted on 1-11-1989 by State Government giving effect to it from 1-7-1988. One of the recommendations viz. Clause 44 granted one advance increment to the teaching staff possessing Ph.D. and working in the Department of Collegiate Education. Subsequently, the University Grants Commission accepted recommendations of Mehrotra Committee for reviewing the status of higher education in the country and Government of India implemented the scheme known as "U.G.C. Scheme,

1986" with effect from 1-1-1986. It also offered financial assistance to the State Governments. Kerala State Government, by order dated 27-3-1990, passed an order to the effect that U.G.C. Scheme, as approved by Government of India, will be implemented in the State. Dispute relates to clause 4.04 of the Scheme of the revision of pay scales of teachers in Universities and affiliated colleges in Kerala and other measures for maintenance of standards in higher education. Said clause reads as follows:

4.04. In order to encourage research, in continuation of Post Graduate Studies, candidates who, at the time of their recruitment as Lecturers possess Ph.D. or M.Phil degree will be sanctioned three and one advance increments respectively along with the benefit of corresponding years of service for the purpose of promotion. The existing Lecturers without research degrees, and those similarly situate, recruited in future will be eligible for a similar benefit in service for the purpose of promotion as and when they acquire research degrees", but will not be eligible for advance increments. Existing Lecturers with research degrees will also be eligible for a similar benefit.

2. According to employee, since she joined as Lecturer in 1965 and acquired Ph.D. in 1980 well before the date of implementation of the Scheme, viz. 1-1-1986, she would be entitled for three advance increments. Claim was negated by appellants. Employee moved this court for relief.

3. Learned single Judge observed that the expression "similar benefit" in the last sentence also referred to those who were recruited with Ph.D. degree or obtained Ph.D degree before the relevant date ie. 1-1-1986. State Government's stand, on the contrary, is that the expression similar benefit" appearing in the last sentence of the clause confers entitlement on such employees to three advance increments only. As indicated above, employee's stand was accepted.

4. Learned counsel for the State submitted that the interpretation given by learned single Judge is clearly erroneous. If that was the intention of State Government, the expression "similar benefit" could have been included in the first sentence of the clause itself. The placement of the sentence in question clearly shows that intention was to treat first category differently from the other two. Learned counsel for employee, on the other hand, submitted that interpretation given by learned single Judge is in line with the true purport and import of the clause and any other importation will be unfair to experienced teachers. A bare look at the above clause makes it clear that it relates to three categories of persons. First relates to freshly recruited Lecturers, second relates to existing Lecturers without research degrees and the third relates to existing Lecturers with research degrees. Persons belonging to first category are entitled to three or one advance increment as the case may be depending whether they possess Ph.D or M.Phil degree along with the benefit of corresponding years of service for the purpose of promotion. Existing Lecturers without research degrees and those recruited in future and those similarly situate are entitled for a similar benefit in service for the purpose of promotion as and when they acquire

research degree but they are not entitled to advance increments. Obviously, they stand on a different footing from those who are recruited fresh. Case of the employee falls within the third category. Point to be decided, as noted above, is to the nature of the benefit to be given to them, ie. whether they are given only the benefit in service for the purpose of promotion or advance increments. If the contention of appellants is accepted, it would mean that no distinction is made between an existing Lecturer with a research degree and one who does not possess it and acquires it subsequently. Such a treatment does not stand to reason. A person who is already in service and has a research degree cannot be put at a lower pedestal than one who is appointed afresh. Object being to encourage research in continuation of post graduate studies, a person who has already acquired the qualification cannot be denied the benefit. It would be equitable, to put them at par to those who are to be recruited fresh, rather than treating them at par with those who do not possess research degree and acquires it subsequently. The expression "existing Lecturers without research degrees" its clearly referable to Lecturers joined after 1-1-1986. The expression "similar benefit*" has been qualified by limiting the nature of benefit. Use of the word "also" is significant for the third category, but no exclusion is provided. The intention, as indicated above, is to encourage work and, therefore even in case of a recruitee after the indicated date, benefit is extended to a limited extent. In case of those possessing research degrees, question of their being entitled, when they acquire it (a future event for those who do not possess it) becomes meaningless. Interpretation given by learned single Judge to the clause appears. to be rational.

We, therefore, find the writ appeal to be without any merit and the same is dismissed.