
(2011) 10 KL CK 0010
In the High Court Of Kerala
Case No : Writ Petition (C) No. 22440 of 2009

Dr. P.G. Ajimol

APPELLANT

Vs

University of Kerala and Another

RESPONDENT

Date of Decision : 10-10-2011

Acts Referred:

Citation : (2011) 4 KLJ 410

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : S. Muhammed Haneef, for the Appellant; M. Rajagopalan Nair and Rani Diothima (GP), for the Respondent

Final Decision : Allowed

Judgement

T.R. Ramachandran Nair, J.—Aggrieved by Ext. P1 decision of the University rejecting the plea for relaxation of two years on account of acquisition of Ph.D for promotion/placement as Selection Grade Lecturer, the petitioner has approached this Court by filing this writ petition. The petitioner was appointed as Lecturer in N.S.S Training College, Pandalam with effect from 07.12.1995. The said appointment has been approved. The petitioner was placed as Lecturer (Senior Scale) with effect from 07.12.2001. She acquired Ph.D on 13.10.2005. By granting relaxation for two years on account of acquisition of Ph.D the Management placed the petitioner into the Selection Grade with effect from 13.10.2005. The proposal was forwarded to the University for approval. Ext. P1 communication is thus issued by the University rejecting the proposal, which is under challenge in this writ petition.

2. Heard the learned counsel for the petitioner, learned Standing Counsel for the University and the learned Government Pleader.

3. Learned counsel for the petitioner invited my attention to Ext. P2 which is a Government Order as well as Ext. P3 circular issued by the University to contend for the position that a person like the petitioner who was granted placement as

Lecturer (Senior Scale) and who acquires Ph.D thereafter is entitled for relaxation for placement into Selection Grade by two years.

4. In the counter affidavit filed by the University, reliance is placed on clause 6.20 of Government Order dated 21.12.1999 and it is contended that going by the same, relaxation for length of service for M.Phil/Ph.D holders is applicable only to the placement as Lecturer (Senior Scale) and that the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years to move into the grade of Lecturer (Selection Grade). Reliance is placed on Ext. R1(a) Government Order dated 21.12.1999 and a further clarification issued by the Government as per Ext. R1(b). It is further pointed out that the petitioner entered service on 07.12.1995 and was placed as Lecturer (Senior Scale) on 07.12.2001, on completion of six years of service as stipulated in paragraph 6.20 of G.O.(P) No. 171/2009/H.Edn dated 21.12.1999. The petitioner acquired the Ph.D degree only on 13.10.2005 and therefore she is not eligible for relaxation of service for acquisition of Ph.D. The petitioner is eligible to be placed as Lecturer (Selection Grade) only on completion of five years in the Senior Scale i.e. on 07.12.2006.

5. The University has explained the scope of Exts. P2 and P3 also and points out that Ext. P 2 deals with teachers who had been placed as Lecturer (Senior Scale) on completion of eight years as per the guidelines that existed before 21.12.1999. It is further pointed out that the circular issued by the University as per Ext. P 3 is only a continuation of the circular issued on 07.11.1997 and 24.03.1998 and the same is also not applicable to teachers who come under the provisions of paragraph 6.20 of the Government Order dated 21.12.1999.

6. The Government has filed a counter affidavit pointing out that the petitioner is not eligible for the benefit claimed. It is pointed out that the relaxation in the years of service is allowable only to those who enter into service with Ph.D or to those who acquire the Research Degrees within a few years (precisely four years) since their entry into service. The case of the petitioner is different as the petitioner acquired Ph.D only after entering Senior Scale and reliance is placed on G.O.(P) No. 171/99/H.Edn dated 21.12.1999 produced as Ext. R2(a).

7. Learned counsel for the petitioner invited my attention to Note 2 to Clause 5(a) of Part III Kerala University Regulations Relating to Qualifications of Teachers and contended that such relaxation is permissible. Clause 5(a) therein in full is extracted below.

(5)(a) Lecturer (Senior Scale)

Every Lecturer will be eligible for placement in a senior scale of Rs. 3000-5000 through a procedure of screening/selection laid down by the University referred in para 2(ii) above, if he has:

(i) Completed 8 (eight) years of service after regular appointment with relaxation as provided in Notes (2) & (3) below.

(ii) Participated in two refresher courses/summer institutes of approved duration

or engaged in other appropriate continuing education programmes of comparable quality as may be specified by the U.G.C.

(iii) Consistently satisfactory performance appraisal reports.

Notes: 1. For placement of Lecturers in Selection Grade as well as for promotion to the post of Reader, the required number of positions would be created by upgrading the posts held by the incumbents concerned.

2. In order to encourage research, in continuation of post-graduate studies, candidates who "at the time of recruitment as Lecturers possess, Ph.D or M.Phil, Degree (Called jointly as the research degrees)" will be sanctioned three and one advance increments respectively in the scale of Rs. 2200-4000 along with the benefit of the 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 similar benefit.

3. Counting of previous service for the purpose of placement in Senior Scale/ Selection Grade will be in accordance with U.G.C guidelines., as approved by the Govt, of Kerala.

8. It is stated that the said regulations have been amended after the coming to force of U.G.C scheme in the year 1999 as per Ext. R2(a) order. Evidently, as rightly explained by the learned Standing Counsel for the University, clause 5(a) therein applies for placement as Lecturer (Senior Scale).

9. As far as Note 2 therein is concerned, the learned counsel for the petitioner relied upon the latter part of the same. According to the learned counsel for the petitioner, the persons like the petitioner who have entered service without Ph.D will be eligible for the benefit of promotion after acquisition of Ph.D by getting relaxation in the number of years required as specified in the first part of Note 2 itself. Evidently, the main part of clause 5(a) applies for placement as Lecturer (Senior Scale) alone and not for Lecturer (Selection Grade). The first part of Note 2 applies to persons who at the time of recruitment as Lecturers, possess Ph.D or M.Phil, who will be sanctioned three and one advance increments in a particular scale along with the benefit of the corresponding years of service for the purpose of promotion. The second part applies to existing Lecturers without research degrees, and those similarly situate, recruited in future. The scheme shows that they will also be granted the benefit in service for the purpose of promotion as and when they acquire the Ph.D degrees. But, they will not be eligible for advance increments. Therefore, persons who are not having the research degrees will get the benefit of service for the purpose of promotion. Thus different conditions have been prescribed for persons who are having Ph.D or M.Phil at the time of recruitment and who are not having the same. Evidently, Note 2 relates to promotion/placement as Lecturer Senior Scale as nothing is

mentioned about the promotion as Lecturer (Selection Grade) (placement as Selection Grade).

10 In that view of the matter, I am of the view that Note 2 will not help the petitioner to get the benefit that is claimed. Paragraph 6.20 of the scheme Ext. R2(a) is under the heading Career Advancement. The same reads as follows:

Minimum length of service for eligibility to move into the grade of Lecturer (Senior Scale) would be four years for those with Ph.D., five years for those with M.Phil, and six years for others at the level of Lecturer, and for eligibility to move into the Grade of Lecturer (Selection Grade/Reader, the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years.

11 The said clause has got three parts. First one relates to Lecturers who are having Ph.D at the time of recruitment. They require four years of service for placement as Lecturer (Senior Scale). For people having M.Phil, it will be five years and for other persons it will be six years.

12 For placement as Lecturer (Selection Grade), what is envisaged is completion of a uniform period of five years as Lecturer (Senior Scale) itself. Therefore, it does not envisage the situation wherein a person acquires Ph.D while serving as Lecturer (Senior Scale). It is a case where the persons who have been given placement as Lecturer (Senior Scale) will have to complete five years for placement as Lecturer (Selection grade). earned counsel for the petitioner submitted that in the judgments in W.P.(C) No. 19589/2005 and 23870/2003 in similar circumstances, this Court has granted the benefit of two advance increments to persons similarly placed. In the first case, what is considered is the grant of two advance increments and in the latter case also what is granted is two advance increments for teachers who have acquired Ph.D before 01.01.1996. These were cases wherein a difference was sought to be made between teachers who acquired Ph.D before 01.01.1996, and those who acquired it after 01.01.1996. Such classification was found impermissible. The claim raised herein is totally different and there is nothing in common as between these cases and the writ petitioner's. Therefore, the said judgments may not help in advancing the case of the petitioner. As noted already, paragraph 6.20 of Ext. R2(a) alone governs the matter. Therefore, the petitioner will have to complete five years as Lecturer (Senior Scale) for the purpose of getting placement as Lecturer (Selection Grade). In that view of the matter, the stand taken by the University cannot be said to be wrong. Apart from that, Exts P2 and P3 as explained in the counter affidavit of the University will not apply to the situation herein. Ext. P2 covers the persons who have completed eight years in the post as Lecturer. As rightly pointed out by the learned Standing Counsel for the University, Ext. P3 only explains the previous circulars in the matter which came into existence prior to 1999 scheme. Therefore, that also will not help the petitioner. Evidently, the petitioner will be entitled for placement into Selection Grade only from 07.12.2006. Therefore, the claim of the petitioner for grant of benefit from 07.12.2005 cannot be accepted.

Therefore, while upholding the view taken by the University as per Ext. P1 as valid, there will be a direction to the University to consider the case of the petitioner for grant of benefit i.e. placement as Lecturer (Selection Grade) from 07.12.2006 and appropriate orders will be passed within a period of two months from the date of receipt of a copy of this judgment after calling for a fresh proposal from the Principal as specified in Ext. P1.

This writ petition is allowed to the above extent. No cost.