

(2012) 03 KL CK 0116
In the High Court Of Kerala
Case No : WP (C) . No. 20275 of 2007 (L)

Manju Philip

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0116

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

Bench : Single Bench

Advocate : V.A. Muhammed and Sri. K.E. Hamza, for the Appellant; Lowsy A, Govt. Pleader R1 TO R3, Sri. T.A. Shaji, S.C, R4, Sri. Sathish Ninan, R5 and Sri. Santhosh Mathew, for the Respondent

Judgement

T.R. Ramachandran Nair, J.—The main grievance of the petitioner is that even though the appointment of the petitioner has been approved by the University, she was not granted the U.G.C. scale from the date of approval of the appointment. She is presently working as a lecturer in Botany in Mar Thoma College, Thiruvalla. There was an earlier appointment for the period from 28.7.1993 to 28.2.1994. Therein, the approval was limited upto 14.12.1993 by the University. Even though again the matter was taken up before the University as per Ext.P4, the University negated the same as per Ext.P5. The present appointment is from 24.8.2000 in a substantive vacancy and Exts.P6 and P7 show that the appointment has been approved. It is the case of the petitioner that three lecturers were appointment in the Department of Botany and those appointments have been approved as per Ext.P8 and the scale of pay sanctioned to them is Rs.8000-13500. But no such scales have been granted to the petitioner. According to the petitioner, in January 2005 the petitioner was drawing he basic pay of Rs.7375/-, as evident from Ext.P9.

2. It is also the case of the petitioner that she had the required qualifications as specified by the U.G.C.. The details have been produced as Exts.P15 (M. Phil) and P16 which are respectively the true copies of the certificate showing

acquisition of M. Phil degree and the Government order giving exemption from NET for such candidates.

3. The University has filed a counter affidavit explaining various aspects. The third respondent has also filed a counter affidavit.

4. In the counter affidavit filed by the third respondent, in para 3 it is stated that the University is cast upon the duty to specify the scale of pay and nature of post to which the approval is given. The third respondent is not the authority competent to alter the nature of post and scale of pay thereof. It is also the plea of the third respondent that the appointment in respect of the petitioner was in such a way in the 48% category in the State scale. Therefore, the petitioner will get the U.G.C. scale of pay only in terms of the U.G.C. Scheme, viz. para 6.25.

5. The petitioner is relying upon Ext.P20 which is a communication issued by the Director of Collegiate Education sanctioning the staff pattern for the year 2001-2002.

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

7. My attention was invited to Ext.P20 which shows that as against the subject Botany, the permissible posts are 8 and learned counsel for the petitioner submits that the petitioner is the 8th person and according to the learned counsel, since the posts sanctioned are in terms of the qualification prescribed by the U.G.C., the petitioner is to be treated as having the qualification prescribed under the U.G.C. and the scale of pay will have to be sanctioned accordingly and not in the State scale. Regarding the above aspect, the counter affidavit filed by the University has not practically answered the contentions of the petitioner. The order of approval does not throw any light on these aspects. Therefore, it is only proper that the University reconsiders the matter.

The writ petition is therefore disposed of directing the University to reconsider the matter with notice to the petitioner and the Management and an appropriate decision will be taken within a period of three months from the date of receipt of a copy of this judgment. No costs.