

(2000) 06 KL CK 0021
In the High Court Of Kerala
Case No : O.P. No. 17171 of 2000

Sasidharan Nair

APPELLANT

Vs

University of Calicut

RESPONDENT

Date of Decision : 20-06-2000

Acts Referred:

Citation : (2000) 2 KLJ 38

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : P. Sukumaran Nayar, P.V.Ramesh Shanker, G. Unnikrishnan and G.P. Shinod, for the Appellant; P.C. Sasidharan and P.V. Asha (Govt. Pleader), for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor

1. The petitioner is now working as Controller of Examinations, University of Calicut. Admittedly he is not a member of the teaching staff. As per the University Statute the age of retirement is on completion of 55 years as per Statute 36, Chap.2 of Calicut University First Statutes 1977. The case of the petitioner in the Original Petition is that on the basis of Ext.P1 notification and other subsequent clarification issued by the University Grants Commission, the age of retirement of the petitioner shall be 60 years. According to him, there was a minutes of discussion of the officials at the higher level as disclosed in Ext.P2 and an alleged anomaly in the matter of age of retirement at 55 years in respect of the teachers in affiliated colleges and 60 in respect of teachers at University level has been noticed and sufficient recommendations for rectification is made. In that circumstances also the petitioner shall have the right to continue until 60 years of age, the petitioner contends. As the Govt, did not, inspite of such anomaly being pointed out, rectify it, the petitioner shall be prejudiced, he submits. It is also the case of the petitioner that the University cannot refuse to implement Ext.P1, unless at the pain of derocognition by the University Grants

Commission. Relying on the decision in University of Delhi Vs. Raj Singh and others, he submits that Ext.Pl is binding on the University, inspite of the statutes to the contra. According to me all these aspects have been covered by the decision of the Suprerme Court in George v. State of Kerala (1992 (1) KLT 793) and a Division Bench of this court in Joseph v. State of Kerala (1999 (3) KLT 764). These had been followed in my judgment dated 17-6-2000 in O.P.I 996/98. Supreme Court as well as the Division Bench in the said two cases has made it clear that implementation of the UGC scheme or the directions of the University Grants Commission cannot have any effect on alteration of University Statute or Rules or Regulations made by Government, concerning the age of retirement of teachers of the affiliated colleges. When it is so in the case of teaching staff of the affiliated colleges, it is more so in the case of the officers of the University like the petitioner in whose case also the age of retirement is governed by the University statutes itself as in the case of private college teachers considered in George's case as well as Joseph's case. Even the contentions of the teachers of affiliated colleges to continue until 60 years of age as in the case of University teachers was not accepted in George's case by the Supreme Court. There the finding of both categories were similar. It was inspite of that the Supreme Court did not accept their case for continuance in service upto 60 years of age. Therefore the petitioner's contention that his duties are "to a large extent akin to those of teachers of the University" does not merit consideration at all. He has no right for continuance in service beyond 55 years of age so long as the Statutes governing his conditions of service including age of superannuation remains as in Statute 36 Chap.2 of the Calicut University First Statutes 1977, which admittedly by him provides the age of retirement as 55 years.

Therefore O.P. fails and is dismissed.