

(2014) 01 KL CK 0132

In the High Court Of Kerala

Case No : WA. No. 1526 of 2013 in WP (C) 13465/2006

State of Kerala

APPELLANT

Vs

K.J. Joseph

RESPONDENT

Date of Decision : 27-01-2014

Acts Referred:

Citation : (2014) 01 KL CK 0132

Hon'ble Judges : T.B. Radhakrishnan, J;A. Muhamed Mustaque, J

Bench : Division Bench

Advocate : Noble Mathew, Senior Government Pleader, Advocate for the Appellant; Kaleeswaram Raj, Advocate for the Respondent

Final Decision : Dismissed

Judgement

T.B. Radhakrishnan, J.—We have heard learned Senior Government Pleader and learned counsel for the respondent quite in extenso. The respondent would have retired from service on 27.01.1996, going by his date of birth. But because, he was a member of the teaching staff of an educational institution and he attained 55 years of age during the course of an academic year, he shall continue in service till the last day of the month in which the academic year ends. This is the provision contained in Rule 60(c) of Part I of Kerala Service Rules. This means that he continued in service by the force of that statutory provision till 31.03.1997. Pay revision order came, with effect from 01.03.1997. The provisions in Part III of the KSR, particularly Rules 62, 63 and 66 clearly show that emoluments and average emoluments, pension, D.C.R.G. etc. are to be reckoned and understood with reference to the last pay drawn and the last 10 months of service. All those events end only on 31.03.1997. Therefore, the benefit of the pay revision order which operated from 03.01.1997 will be available to the respondent herein. Unlike what has been done by the later pay revision orders, in the pay revision order which operates from 01.03.1997, there is no provision which takes away the benefits or controls and diminishes the effect of that pay revision order as regards teachers coming under the UGC, AICT

norms etc. Under such circumstances, notwithstanding whether State of Kerala and Another Vs. P.V. Neelakandan Nair and Others, is directly applicable or not, the impugned judgment issued by the learned single Judge cannot be faulted at the instance of the Government. Writ appeal therefore, fails.

2. In the result, writ appeal is dismissed. No costs.

Appellants are granted two months from today to give effect to the directions contained in the judgment of the learned single Judge.