
(2011) 03 KL CK 0134

In the High Court Of Kerala

Case No : Writ Petition (C) No. 34191 of 2010

T. Krishnankutty and K.M. Chinnamma, Binder II (Retd.)

APPELLANT

Vs

Kerala Agricultural University and The Deputy Director

RESPONDENT

Date of Decision : 28-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0134

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

Bench : Single Bench

Advocate : K. Jaju Babu, for the Appellant; K.P. Mujeeb, SC, for the Respondent

Final Decision : Allowed

Judgement

T.R. Ramachandran Nair, J

1. The Petitioners, who retired from service as Printer Gr.II/Binder Gr.II from the Kerala Agricultural University, are aggrieved by the denial of pension and other benefits in the scale of pay drawn by them as on the last working day.

2. Earlier, the Petitioners were working as permanent labourers. In the year 2000, the University decided to recruit Binders/Printers in the University Press by internal selection from the permanent labourers and a Selection Committee was constituted for this purpose. The Petitioners also participated in the selection process and they were included in the final select list published by the Selection Committee and accordingly they were appointed as Binder/Printer by Exhibit P2 order. As on the date of retirement, they were drawing a pay of Rs. 7,160/- from 1.10.2009. The last pay has not been taken into consideration for fixing the pension and other benefits. The same is evident from Exhibits P3 to P8. The Petitioners challenge the same on various grounds and reliance is placed on Exhibit P10 judgment of this Court.

3. In the counter affidavit filed by the University, it is pointed out that seven Press Workers including the Petitioners were internally selected and appointed as

Binder and Printer. Actually, the Kerala Agricultural University Statute provides for only direct recruitment. But, internal selections were necessitated when the seven permanent Labourers in Printing and Composing Section at the University Press, Mannuthy became surplus due to the installation of Resograph Machine for printing and computer for composing work. The internal selection was done the basis of the recommendation of the Establishment Committee meeting held on 1.4.2000. Later, by Exhibit R1(a) resolution, the Executive Committee approved the recommendations of the Establishment Committee stating that the appointments of the incumbents will be provisional and subject to regularization as per the Amended Statute. From paragraph No. 5 of the counter affidavit, it can be seen that as per University Order dated 30.7.2001, their services were regularized from 6.10.2000, but without getting the statute amended. The increments were not paid for a period of three years, initially. In paragraph No. 6, it is pointed out that 398th and 415th Executive Committee meetings held on 25.10.2004 and 18.7.2005 respectively decided to sanction the pending increments to them subject to the condition that in case the amendment proposed was not assented by the Governor the pay of the incumbents would be regulated accordingly. Exhibit R2(a) and Exhibit R2(b) are the said proceedings. The Local Fund Audit while recommending the pensionary benefits did not admit in the audit the appointment of the Petitioners as Printer/Binder for want of amendment of the Statute. Accordingly, pension was calculated.

4. The learned Counsel for the Petitioner submitted that it is not due to any fault of the Petitioners that the matter was kept pending. It is further pointed out that pension has to be calculated as per the last pay drawn and my attention is drawn to Exhibit P10 judgment . The Petitioner therein was in service as Technical Officer Gr.I on the date of retirement. His pensionary benefits were not disbursed when the Audit Wing had raised an objection with regard to the introduction of Scientific Cadre. This Court by considering various aspects including the decisions of the Executive Committee and the judgment of this Court in W.P.(C) No. 5908/05 held that the Petitioner therein is entitled to get due retirement benefits from the University in the post in which he retired from service.

5. Evidently, in this case, the internal selection was adopted by the Establishment Committee. It was later approved by the Executive Committee also. True that a proposal was made for amending the Statute. But, non-culmination of the steps for amending the Statute cannot normally result in denial of due benefits to the Petitioners, since they have been appointed to the post of Printer/Binder and have worked in that post. They have also earned salary and other benefits including increments in the said post. Therefore, for the purpose of fixing the pension and other benefits, the last pay drawn in the said post will have to be reckoned.

6. Even going by the averments in the counter affidavit, it can be seen that Exhibit R2(a) and Exhibit R2(b) decisions were taken to release the monetary benefits including increments. The grant of pension and other retirement benefits

only by taking the scale of pay as permanent worker cannot be justified in the light of the above circumstances.

In that view of the matter, I respectfully agree with the view taken in Exhibit P10 judgment wherein also a similar objection was overruled by this Court. Therefore, the Writ Petition is allowed. It is declared that audit objection will not stand in the way of sanctioning pension and other benefits on the basis of last pay drawn by the Petitioners in the post of Printer Gr.II/Binder Gr.II. The action thereon will be finalised and appropriate steps will be taken to disburse the monetary benefits after sanctioning the same within a period of two months from the date of receipt of a copy of this judgment. No costs.