

**(2012) 03 KL CK 0285**  
**In the High Court Of Kerala**  
**Case No : W.A. No. 1883 of 2011**

|                                          |            |
|------------------------------------------|------------|
| Vice Chancellor, Kerala Agrl. University | APPELLANT  |
| Vs                                       |            |
| P. Nandakumar and Others                 | RESPONDENT |

---

**Date of Decision :** 30-03-2012

**Acts Referred:**

Kerala Agricultural University Act, 1971 — Section 14, 16

**Citation :** (2012) 2 KLJ 553

**Hon'ble Judges :** C.N. Ramachandran Nair, J; Babu Mathew P. Joseph, J

**Bench :** Division Bench

**Advocate :** K.P. Mujeeb SC, for the Appellant; Millu Dandapani (SC), P. Ravindran and Aparna Rajan, for the Respondent

**Final Decision :** Dismissed

---

## Judgement

Babu Mathew P. Joseph, J.—This Appeal is directed against the judgment dated 19.7.2011 of the learned Single Judge in W.P. (C) No. 4635 of 2011. The appellant, who is the Vice Chancellor of the Kerala Agricultural University, is the additional 4th respondent in the Writ Petition. The first respondent is the petitioner and the respondents 2 to 4 are the respondents 1 and 2 and the additional 3rd respondent respectively in the Writ Petition. The brief facts necessary for the disposal of this Writ Appeal are stated as follows:--The first respondent is an Associate Professor (Animal Breeding and Genetics) in the College of Veterinary and Animal Sciences, Mannuthy under the second respondent Kerala Agricultural University. He had participated in the selection and screening proceedings conducted by the Selection/Screening Committee from 12.7.2007 to 20.7.2007 under the Career Advancement Promotion Scheme for promotion to the post of Professor. But, he was denied promotion by the Screening Committee on the reasoning that his contributions were not upto the desired standards. Therefore, the first respondent filed W.P.(C) No. 26357/2007 in this Court challenging the selection process and the promotions made on the ground that they were done in violation of the Regulations and Guidelines issued

by the University Grants Commission and for a direction to promote him to the post of Professor in the faculty of Veterinary and Animal Sciences. The University has filed a statement in that Writ Petition stating that a Redressal Committee was constituted as per the decision of the Executive Committee for examining the anomalies and grievances raised by the teachers/scientists with regard to the Career Advancement Promotions effected and requested to submit their grievances in writing before the said Committee. Thereafter, the first respondent filed a representation, produced as Ext.P16 in that Writ Petition, before the Vice Chancellor. This Court, by Ext.P1 judgment dated 24.9.2010, directed the Vice Chancellor to place Ext.P16 before the Redressal Committee without delay with a further direction to the Redressal Committee to consider and dispose of the same, after affording an opportunity of being heard to the petitioner and any other affected party, as expeditiously as possible and at any rate within a period of two months from the date of receipt of a copy of the judgment. The Redressal Committee heard the first respondent on 3.11.2010 and examined the papers submitted by him at the time of hearing along with those he had submitted at the time of screening and found that he was denied promotion though he had three papers in international journals and other requirements and decided to place the matter before the Executive Committee for taking a decision regarding re-screening. Ext. P2 is a copy of the minutes of the Redressal Committee held on 19.11.2010. Ext.P2 was forwarded to the members of the Executive Committee by the Registrar of the University along with his Ext.P3 letter dated 6.1.2011.

2. The newly formed Kerala Veterinary and Animal Sciences University invited options from faculty members of the Kerala Agricultural University for joining the Kerala Veterinary and Animal Sciences University by Ext.P4 circular dated 12.1.2011. Therefore, delay in the matter of promotion to the post of Professor will seriously prejudice the first respondent and hence, notices were sent by him to the Vice Chancellor and the Registrar of the second respondent University requiring them to take a final decision in the matter of promotion. Thereafter, on 4.2.2011, he was served with Ext.P5 Action Taken Report dated 29.11.2010 intimating him that, as suggested by the Redressal Committee in Ext.P2, action was being taken to place the matter before the Executive Committee. Since, as per Ext.P2 decision of the Redressal Committee itself, the first respondent is entitled to promotion to the post of Professor and apprehending any further delay in the matter would" prejudice him, he preferred the Writ Petition for quashing Ext.P2 to the extent it refers to re-screening and for promoting him to the post of Professor in the faculty of Veterinary and Animal Sciences based on Ext.P2 with all consequential benefits.

3. The learned Single Judge, after hearing the parties, passed an interim order on 7.3.2011 directing the third respondent Executive Committee to take appropriate decision with regard to the claims of the first respondent within a period of three weeks. The first respondent, along with I.A. No. 9238 of 2011, produced Exts.P6 and P7 minutes of the meetings of the Executive Committee

held on 15.3.2011 and 30.4.2011 before this Court. The Executive Committee, as could be seen from Ext.P7, decided to promote the first respondent in the light of the decision taken by the Redressal Committee with the dissent of the Vice Chancellor. After hearing the parties, the learned Single Judge allowed the Writ Petition and directed to implement the decision of the Executive Committee as reflected in Exts.P6 and P7 and to pass appropriate orders within a period of three weeks from the date of receipt of a copy of the judgment by granting promotion to the first respondent as Professor under the Career Advancement Promotion Scheme. Aggrieved by the judgment of the learned Single Judge, the Vice Chancellor has preferred this Writ Appeal.

4. We have heard the learned counsel for the appellant.

5. Whether the decision of the Executive Committee to grant promotion to the first respondent to the post of Professor in the light of Ext.P2 decision taken by the Redressal Committee is legally sustainable or not is the question considered and answered by the learned Single Judge in favour of the first respondent. The finding of the learned Single Judge is under challenge in this Writ Appeal. The promotion to the post of Professor in question is under the Career Advancement Scheme. The first respondent has participated in the selection and screening proceedings conducted by the Selection/Screening Committee from 12.7.2007 to 20.7.2007. But, he was denied promotion by the Screening Committee on the reasoning that his contributions were not upto the desired standards. Challenging the same, he filed W.P.(C).No. 26357 of 2007 in this Court. The University has filed a statement in that Writ Petition stating that a Redressal Committee was constituted as per the decision of the Executive Committee for examining the anomalies and grievances raised by the teachers/scientists with regard to Career Advancement Promotions effected and requested to submit their grievances in writing before the said Committee. Therefore, it is quite evident that the Executive Committee found the necessity of examining the anomalies and grievances raised by the teachers/scientists with regard to the selection process under the Career Advancement Promotion Scheme and hence, appointed a Redressal Committee and requested the teachers/scientists to submit their representations before the Redressal Committee. As directed by this Court in WP(C).No. 26357 of 2007, the Redressal Committee considered Ext.P16 representation submitted by the first respondent. As could be seen from Exts.P2 and P5, the first respondent was given a personal hearing by the Redressal Committee on 3.11.2010 when he explained that he had nearly 50 publications including six publications in international journals. He also reported that he had sufficient published works. The matter was examined by the Redressal Committee. They had scrutinised the papers submitted by the first respondent at the time of hearing along with those he had submitted at the time of screening and found that he was denied promotion though his three papers were published in international journals and he satisfied other requirements. Therefore, the Redressal Committee decided to place the matter before the Executive Committee for taking a decision regarding re-screening.

6. The Executive Committee appointed the Redressal Committee as a competent committee for examining the anomalies and the grievances raised by the teachers/scientists who had participated in the selection process conducted by the Selection/Screening Committee. There is no dispute with regard to the competency of the Redressal Committee to go into the matter referred to them and the only contention is that the Vice Chancellor is not a member in that Committee. The question therefore to be considered is whether the Redressal Committee's recommendations have to be rejected merely because Vice Chancellor is not a member in it. The constitution of various committees of the Kerala Agricultural University is governed by Section 21 of the Kerala Agricultural University Act (for short, hereinafter referred to as the Act) which reads as follows:

Constitution of Committees:--Every authority shall have the power to. appoint committees which may, unless otherwise provided in this Act or the Statutes, consist of the members of the Authority, and such other persons as it may think fit.

Six categories of Authorities are prescribed u/s 9 of the Act. The Executive Committee is one of the Authorities. Every Authority shall have the power to appoint committees which may consist of the members of the Authority and such other persons as it may think fit as provided u/s 21 of the Act. Therefore, it is not necessary to include all the members of the Authority in the committee appointed by such Authority. The Vice Chancellor is a member of the Executive Committee. The Executive Committee appointed the Redressal Committee without including the Vice Chancellor. Therefore, the Redressal Committee is a committee duly constituted by the Executive Committee by exercising its powers u/s 21 of the Act for examining the anomalies and grievances raised by the teachers/scientists with regard to the Career Advancement Promotions effected. Mere absence of the Vice Chancellor or any other executive committee member as a member in the Redressal Committee will not in any way affect the competence of the Redressal Committee so constituted, to decide the matter referred to them. Hence, the contention of the appellant that he is not a member in the Redressal Committee has no relevance at all. The Redressal Committee is a validly constituted Committee and it is competent to make recommendations on matters for which it was constituted by the Executive Committee. Moreover, the appellant does not have a case that the Redressal Committee was constituted irregularly.

7. The Screening Committee denied promotion to the first respondent on the reasoning that his contributions were not upto the desired standards. After considering the relevant aspects of the matter, the Redressal Committee--a competent committee appointed by the Executive Committee--found that the first respondent was denied promotion though he had three papers in international journals and satisfied other requirements and decided to place the matter before the Executive Committee. The decision of the Redressal Committee

shows two things. (1) The first respondent is fit for promotion to the post of Professor based on relevant materials. (2) The decision of the Screening Committee denying him promotion was wrong and without any basis.

8. Exts.P6 and P7 show that the decision of the Executive Committee for granting promotion to the first respondent in the light of the decision of the Redressal Committee was taken with the dissent of the Vice Chancellor. The Vice Chancellor opined that the first respondent should appear in the next CAP (Career Advancement Promotion) in order to get his eligible benefit. That means, the matter has to go again before the Screening Committee for considering the question of promotion of the first respondent to the post of Professor at a later date. Whether such a second round procedure is required in the matter of promotion of the first respondent is the question to be considered.

9. Section 14 of the Act stipulates that the Executive Committee shall be the chief executive body of the University. Section 16, describes the powers of the Executive Committee. As per Section 16, subject to the provisions of the Act and the Statutes, the executive powers of the University including the general superintendence and control over the institutions of the University are vested in the Executive Committee. Section 16(g) specifically shows that the Executive Committee has the power to appoint teachers and other employees of the University and prescribe their duties. Section 2(26) of the Act defines the term teacher which reads as follows:

"Teacher" means the person appointed or recognised by the University for the purpose of imparting instructions or conducting and guiding research or extension education programmes, and includes any other person who may be declared by the Statutes to be a teacher.

Therefore, the Professor in question is also a teacher within the sweep of this definition. No dispute is also there regarding this matter. Power to appoint teachers takes in the power to appoint teachers by way of promotion. Therefore, the Executive Committee has the power to grant promotion to the post of Professor. Thus, the chief executive body of the University, namely, the Executive Committee has decided to grant promotion to the first respondent to the post of Professor in the light of the recommendation validly made by the Redressal Committee. Such a decision taken by the Executive Committee is well within its powers. The first respondent had undergone the selection/screening process for promotion to the post of Professor. But, he was denied promotion. The Redressal Committee appointed by the Executive Committee specifically found that the first respondent was denied promotion to the post of Professor ignoring relevant materials. Hence, the decision of the Screening committee denying promotion to the first respondent cannot be sustained. When the decision of the Screening Committee and the decision of the Redressal Committee are considered in the light of the statutory power granted to the Executive Committee, it can be found that the Executive Committee can independently take the decision to grant promotion to the first respondent to the post of Professor without referring the

matter again to the Screening Committee. Therefore, the decision taken by the Executive Committee in Exts.P6 and P7 with the dissent of the Vice Chancellor is legally sustainable and enforceable. The majority decision of the Executive Committee is binding on the Vice Chancellor as he has no power to overrule the same. Hence, the contention of the Vice Chancellor that the decision taken by the Executive Committee is null and void is only to be rejected as unsustainable.

10. Since the decision of the Executive Committee is well within its powers and a valid one, the Vice Chancellor cannot resist the same by pointing out his power under Sub Section 4 of Section 28 which stipulates that he shall ensure the faithful observance of the provisions of the Act, the Statutes, the Ordinances and the Regulations and may exercise such powers as may be necessary for that purpose. On the other hand, he is bound to implement that decision of the Executive Committee. Section 28 of the Act prescribes the powers and duties of the Vice Chancellor. Sub Section 8 of Section 28 reads as follows:

The Vice Chancellor shall give effect to the orders of the General Council and the Executive Committee regarding the appointment, suspension and dismissal of officers, teachers and other employees of the University.

This provision mandates that the Vice Chancellor is duty bound to carry out the orders issued by the Executive Committee regarding appointment of teachers of the University. There cannot be any dispute with regard to the fact that the Executive Committee of the University has issued such an order in Ext.P7 for carrying out by the Vice Chancellor.

The appellant has raised a contention in the Writ Appeal that the upgradation to the post of Professor shall be done on the recommendation of an Assessment Committee and with the approval of the General Council as it is governed by Clause 9(b) of the Kerala Agricultural University Statutes. This contention is only to be rejected because the said Clause in the relevant Statutes is applicable only in the case of upgradation to the posts of Associate Professor and Professor in a different stream. As far as the Career Advancement Promotion is concerned, this Clause is not at all applicable. It is admitted in the counter affidavit filed by the appellant in the Writ Petition; that the promotion to the post of Professor in question is Career Advancement Promotion under the U.G.C. Scheme. In the Writ Appeal also the appellant does not have a different case. The appellant did not raise a case based on Clause 9(b) of the Statutes in the counter affidavit. Such a contention is raised for the first time in the Writ Appeal. In the case of upgradation to the post of Professor, as per this Clause, the assessment of the candidates; will be made by an Assessment Committee. The members constituting this Assessment Committee and the members constituting the Selection Committee in the case of Career Advancement Promotion are different. This is evident from the averments made by the appellant himself in the counter affidavit as well as in the memorandum of Writ Appeal. This being the position, the contention so raised is rejected. The appellant who is bound to implement the decision of the Executive Committee to promote the first respondent as

Professor is attempting to circumvent the same by raising such untenable contentions even after this Court upheld that decision and issued direction to implement the same. This cannot be permitted. The appellant is statutorily bound to implement the decision of the Executive Committee to promote the first respondent as Professor.

The learned Single Judge has considered the matter in its right perspective and arrived at the conclusions and issued the directions. We find no reason to interfere with the findings entered and the directions issued by the learned Single Judge in the impugned judgment. This Writ Appeal is devoid of any merit and is liable to be dismissed. Therefore, we confirm the judgment of the learned Single Judge and dismiss this Writ Appeal.