

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 28TH FEBRUARY 2011 / 9TH PHALGUNA 1932

WP(C).No. 3541 of 2011(P)

PETITIONER(S):

**K.O.FRANCIS,
LECTURER SELECTION GRADE,
DEPARTMENT OF COMMERCE, CHRIST COLLEGE,
IRINJALAKKUDA.**

**BY ADVS. SRI.B.MOHANLAL
SMT.P.S.PREETHA**

RESPONDENT(S):

- 1. UNIVERSITY GRANTS COMMISSION,
BEHADUR SHAH ZAFAR MARG, NEW DELHI-110 002,
REPRESENTED BY ITS SECRETARY.**
- 2. THE DEPUTY SECRETARY & REGIONAL HEAD,
UNIVERSITY GRANTS COMMISSION,
SOUTH WESTERN REGIONAL OFFICE, GANDHI NAGAR,
P.O.BANGALORE, PIN-560 009.**
- 3. STATE OF KERALA, REPRESENTED
BY SECRETARY TO GOVERNMENT, HIGHER
EDUCATION (C) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-1.**
- 4. THE DIRECTOR OF COLLEGIATE EDUCATION,
KERALA STATE, VIKAS BHAVAN,
THIRUVANANTHAPURAM-1.**
- 5. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, THRISSUR, PIN-680 001.**

**R1-2 BY ADV. SRI.S.KRISHNAMOORTHY, CGC
R3 TO R5 BY GOVT.PLEADER SMT.NISHA BOSE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/02/2011, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

SVS

T.R.RAMACHANDRAN NAIR,J.

W.P.(C)No.3541 Of 2011

DATED THIS THE 28th DAY OF FEBRUARY, 2011

J U D G M E N T

The petitioner herein is aggrieved by the order passed by the 3rd respondent in declining permission to join the Faculty Development Programme(FDP).

2. The petitioner is a Selection Grade Lecturer working in the Commerce Department of Christ College, Irinjalakuda, which is affiliated to the Calicut University. After successive promotions, he is continuing as Lecturer Selection Grade in the said College and all the promotions have been approved also.

3. The FDP programme is sanctioned by the Government after the UGC scale was adopted. For the 11th plan year 2007-2012, this was introduced for quality improvement in the studies to the teachers and to award Teacher Fellowship for doing M.Phil/Ph.D. to them, which is evident from Exhibit P1 also. Under Clause 3:1:2 of Exhibit P1 Scheme adopted by the Government, there is a stipulation that the teacher should not be more than 45 years on the date of application. According to the petitioner, he is continuing his Research leading to Ph.D. and as it

is an extension of M.Phil.Project, he submitted an application dated 5.2.2010 through the Principal of the College for joining the FDP Programme. It is submitted that the guidelines were revised by the 1st respondent UGC as per Exhibit P4. Therein the age for fellowship under the Faculty Development Programme is fixed as 50 years as on the date of application.

4. Members of minority community are granted relaxation of five years on the date of the application. The petitioner belongs to a minority community, viz; Roman Catholic Syrian and thus it is claimed that the petitioner is entitled to get exemption of five years in terms of Exhibit P4 order. Apart from that, the petitioner has completed 50 years as on 11.5.2010 and he has got six years remaining service for attaining superannuation and the Programme is only for a period of two years.

5. The University Grants Commission as per Exhibit P5 sanctioned the application as requested for by the petitioner. Thereafter, the petitioner submitted an application on 24.3.2010 to the 4th respondent through the Principal for getting concurrence from the Government. This was recommended by

the Principal as per Exhibit P7.

6. It appears that the application was forwarded by the 4th respondent without noticing the relaxation of age in Exhibit P4. It was stated by him that the required age is 45 years. The said communication is produced as Exhibit P8. Thereafter the 3rd respondent passed Exhibit P9 order, noting the age as 45.

7. The petitioner again moved the Government for reviewing the same as per Exhibit P10, which was replied by Exhibit P11. The same is challenged along with Exhibit P9.

8. According to the petitioner, he is entitled for relaxation of five years and the petitioner approached this Court earlier by filing W.P.(C)No.19564/10 which was disposed of by Exhibit P14 judgment and during the pendency of the Writ Petition, the Government passed Exhibit P15 order revising the guidelines whereby the Government fixed the age as 50 as on the date of relieving of the concerned teacher for joining the FDP Programme. Certain other restrictions have also been placed in Exhibit P15. Therefore, the Government by Exhibit P18 rejected his request as he has crossed the age of 50 as on the date of Exhibit P15 order, which is under challenge in this Writ Petition.

9. Heard the learned counsel for the petitioner Shri B.Mohanlal, the learned Standing Counsel for the University Grants Commission Shri S.Krishnamoorthi and the learned Government Pleader.

10. The learned counsel for the petitioner submitted that as on the date of submission of application, the petitioner had not crossed the age of 50 years. It is therefore submitted that the relevant clause in Exhibit P15 cannot apply to the petitioner. It is pointed out that in the earlier judgment Exhibit P14, this Court had directed the Government to consider various aspects, but none of those aspects have been considered also. The learned counsel for the petitioner further submitted that since the UGC has prescribed the guidelines, it has to be uniformly applied by the Government.

11. Evidently, the age fixed originally was 45 years, relaxable by five five years for Scheduled Castes and Scheduled Tribe categories, in Exhibit P1. This was the clause which was in force as applicable for the plan period 2007-12 and fixed by the Government. The UGC by Exhibit P4 revised the age as 50 years. But still the Government has not accepted the said guidelines

prescribed by the UGC in toto. The impediment caused to the petitioner, according to the learned counsel for the petitioner, was the delay on the part of the Government in prescribing the revised guidelines.

12. Evidently, Exhibit P15 shows that the Government has accepted the guidelines prescribed by the UGC with certain modifications. The Government has fixed the age as 50 as on the date of relieving of the teacher by way of deputation. It is also stated that the remaining service should be twice the period of deputation.

13. The learned counsel for the petitioner submitted that the cut off date, namely, 15.7.2010, namely date of Exhibit P15 adopted in Exhibit P18, as regards the petitioner is concerned, is arbitrary. Hence it is pointed out that Exhibit P18 cannot be supported.

14. The competency of the Government to accept the guidelines with modifications cannot be disputed. It is not as if the guidelines prescribed by the UGC are automatically binding on the Government. Evidently, for the plan period 2007-2012, the age was originally 45, relaxable by five years in the case of

SC/ST communities. Revised guidelines were prescribed by the UGC as per Exhibit P4 with a clause for relaxation in respect of SC,ST, OBC and minority communities counting the date of application as the crucial one. But the Government has fixed the age as 50 taking the date of relieving for deputation as the criteria.

The wisdom of the Government in these matters cannot be a subject matter of review by this Court. Various benefits have been conferred on the people who are allowed to join the FDP programme and the teachers will get two more increments after they complete the programme. The Government can stipulate appropriate conditions which cannot be said to be arbitrary. For all these reasons I do not find any reason to interfere with the order Exhibit P18 and the challenge against Exhibit P15 also fails since the fixation of age in paragraph No.1 of Exhibit P15 cannot be said to be arbitrary or illegal. The Writ Petition is hence dismissed. No costs.

Sd/-(T.R.RAMACHANDRAN NAIR, JUDGE)

dsn

True copy

P.A.to Judge