

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR  
&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH  
TUESDAY, THE 30<sup>TH</sup> DAY OF AUGUST 2022 / 8TH BHADRA, 1944

RP NO. 418 OF 2021

AGAINST THE JUDGMENT IN WA 1782/2018 OF HIGH COURT OF KERALA  
REVIEW PETITIONER/1ST RESPONDENT/PETITIONER:

DR.C.S.RAJAN  
AGED 73 YEARS,S/O. PARAMESWARAN PILLAI, READER IN  
HINDI (RETIRED), SREE SANKARACHARYA UNIVERSITY OF  
SANSKRIT, KALADY, NOW RESIDING AT HOUSE  
NO.33/102/E, SOUMYA NAGAR ROAD, ALINCHUVADU,  
EDAPPALLY P.O.,ERNAKULAM DISTRICT, PIN - 682 024.  
BY ADV M.P.MADHAVANKUTTY

RESPONDENTS/APPELLANTS & 2ND RESPONDENT:

- 1 THE REGISTRAR  
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,  
KALADY, ALUVA, ERNAKULAM DISTRICT, PIN - 683 574.
- 2 SREE SANKARACHARYA UNIVERSITY OF SANSKRIT  
REPRESENTED BY ITS REGISTRAR, KALADY, ALUVA,  
ERNAKULAM DISTRICT, PIN - 683 574.
- 3 STATE OF KERALA  
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695 001.  
R1 & R2 BY ADV SHRI.DINESH MATHEW J.MURICKEN, SC,  
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY  
R3 BY SR. GOVT. PLEADER, SMT.V. BINITHA

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION  
ON 30.08.2022, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

R.P. No. 418 of 2021  
in W.A. No. 1782 of 2018

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**P.B. SURESH KUMAR & MARY JOSEPH, JJ.**

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R.P. No. 418 of 2021

in

W.A. No. 1782 of 2018

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Dated this the 30<sup>th</sup> day of August, 2022

**ORDER**

**MARY JOSEPH, J**

Petitioner is the 1<sup>st</sup> respondent in Writ Appeal No.1782 of 2018 and 1stpetitioner in W.P.(C) No.951/2008. Respondents are the appellants in the Writ Appeal and respondents in the Writ Petition.

2. Petitioner was initially appointed as Junior Lecturer in Hindi at N.S.S. Hindu College, Mattannur on 03.08.1970. He was promoted as Lecturer and later as Selection Grade Lecturer(Senior Scale).

3. On 01.11.1994 he joined at Sree Sankaracharya University of Sanskrit as Professor and relieved therefrom after two years and 11 months. He rejoined the University again on 17.11.1997 as Reader and relieved on 30.04.2005, since the

challenge raised against the entire appointments made by the then Vice Chancellor of the University was upheld by a Division Bench of this Court.

4. UGC Norms provide that a person having eight years of service as Reader is entitled to get promotion as Professor. Petitioner was having a total service of 34 years, during which period he had worked as Selection Grade Lecturer at N.S.S. Hindu College from 01.01.1986 to 31.10.1994. The said period is more than 8 years and therefore the petitioner was eligible for promotion as Professor. The Government of Kerala issued GO(Rt) No.518/99/H.Edn. Dated 19.05.1999 and accorded sanction for treating the period of service of all teachers who have been thrown out of service of Sree Sankaracharya University of Sanskrit pursuant to judgment passed by Division Bench of this Court. Therefore, the petitioner has a service of more than 8 years as Selection Grade Lecturer and he is entitled to be promoted as Professor from the date on which he became eligible.

5. Petitioner made several representations and ultimately Ext.P9 representation, which was rejected by the University and therefore, he has approached this Court by filing W.P.(C) No.951/2008.

6. Respondents 1 and 2 in the Writ Petition raised contentions to the effect that the petitioner joined the service as Professor in Hindi in Sree Sankaracharya University on 01.11.1994. But, the said appointment having been set aside by a Division Bench of this Court and the period of service there having been treated as service 'on deputation', period from 01.11.1994 till 30.09.1997 cannot be reckoned as regular service. He was subsequently appointed as Reader in the University on regular basis on 17.11.1997 and continued as such till 30.04.2005. Therefore, the said duration of service alone can be reckoned as the period for which he was in regular service as Reader and that being only 7 years, 5 months and 15 days, which is less than 8 years prescribed by UGC Norms petitioner is ineligible for promotion to the post of Professor. The University has taken up petitioner's case with the Government and a

clarification was issued by the latter to the effect that the petitioner is not entitled for promotion to the post of Professor since his duration of service as Reader is less than 8 years.

7. The order issued by the Government was challenged in W.P.(C) No.951/2008 and the learned Single Judge allowed the Writ Petition observing that the petitioner who has more than 2½ years of service as Professor which being a post higher than Reader, petitioner's experience is also an important factor to be reckoned for the purpose of counting the number of years so as to consider him as eligible for promotion.

8. The judgment passed by the Single Bench in the Writ Petition was set aside by the Division Bench when it was assailed in Writ Appeal, by the judgment sought to be reviewed now.

9. The contention of Sri.Madhavankutty, the learned counsel was that the review petitioner has 8 years and ten months' service as Selection Grade Lecturer at N.S.S. College from 01.01.1986 till 01.01.1994. According to him, Circular No.F-2-5/2000(PS) dated 13.03.2003 which provides that past service rendered as Associate Professor/Reader in any other recognized

University/College can be reckoned for promotion to the post of Professor and Circular No.F-2-5/2000(PS) dated 27.05.2003 issued in clarification of the guidelines issued by Circular dated 13.03.2003 though have been withdrawn by Circular No.F-2-5/2000(PS) dated 23.09.2003, true copy of which is produced alongwith the Writ Appeal as Annexure 4, it cannot be said to have any retrospective application. According to him, Annexure 4 Circular having the impact of cancelling the earlier Circulars having been issued only on 23.09.2003 it can have only prospective effect and cannot have any impact in petitioner's case.

10. Argument of the above nature was found already advanced before the Division Bench which considered the Writ Appeal. The Division Bench observed that UGC Regulations 2000, mandates that a person to be eligible for promotion as Professor must have completed eight years service as a Reader. The Division Bench also observed that the finding of the learned Single Bench that the period which was served by the petitioner as a Professor at Sree Sankaracharya University for 2½ years, a

post higher than Reader, in view of the vast experience he had gained by serving as such can also be considered to get over the period of service prescribed by the UGC Norms cannot sustain.

11. It is pertinent to note that the 2½ years' service which the petitioner had at Sree Sankaracharya University as Professor was set aside by the Division Bench vide judgment in **Sree Sankaracharya University of Sanskrit v. State** [1996 (2) KLT 378]. It may be that by Circulars issued by Government as Annexures 2 and 3 referred to supra, the Government directed to reckon the period of service as Professor for promotion. But, by Annexure 4, the Government has withdrawn Annexures 2 and 3 Circulars issued by it and thereby caused the operation of the judgment passed by the Division Bench to revive. The Division Bench had declared the appointment of the petitioner and several others to the post of Professor at Sree Sankaracharya University as illegal. Therefore, the period of service rendered by the petitioner in view of the illegal appointment gained colour as 'service on deputation' rather than regular service.

12. The learned counsel has also urged that in Annexure 4, the Circulars referred to as withdrawn bears a number distinct than the one found in Annexures 2 and 3. He could not point out to us that a Circular with number specifically referred to in Annexure 4 exists and therefore, the reference of the number of the Circular distinct in Annexure 4 can only be taken as an error occurred while printing it. From the contents of Annexure 4, it can be taken that the Circulars referred to are nothing but Annexures 2 and 3 referred to above.

13. UGC Norms mandate to have continuous service for eight years in the post of Reader for being eligible for consideration for promotion to the post of Professor. When norms prescribing qualifications laid by the UGC are unambiguous, the Court is disempowered to give its own interpretations to benefit one. When Norms prescribe eight years' continuous service in the post of Reader as eligibility for promotion, vast experience of the person in a post gained by him pursuant to an appointment declared by a Court of law as illegal will in no circumstances would act as a substitute to make him



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eligible. Experience cannot substitute duration of service required by the Norms. The Division Bench has passed the judgment in Writ Appeal after elaborately delving on all facets of arguments advanced. The judgment to any extent of consideration suffers for an error apparent on record and the review petition is only liable to be dismissed.

Review Petition fails and is dismissed.

Sd/-

**P.B. SURESH KUMAR  
JUDGE**

Sd/-

**MARY JOSEPH  
JUDGE**

ttb