



GOVERNMENT OF KERALA

Abstract

Higher Education Department - Collegiate Education - Court Cases - Order dated 26.07.2019 in OA 2312/2018 filed by Shri Suresh K - Complied with - Orders issued.

HIGHER EDUCATION (F) DEPARTMENT

G.O.(Rt)No.414/2024/HEDN Dated,Thiruvananthapuram, 26-03-2024

- Read
1. G.O. (P) No.171/99/H.Edn dated 21.12.1999
 2. G.O.(Rt)No. 1718/2008/Hedn dated 19.11.2008
 3. Order dated 26.07.2019 in OA 2312/2018 by the Hon'ble Kerala Administrative Tribunal.
 4. Judgement dated 16.03.2023 OP(KAT) 386/2020 by the Hon'ble High Court of Kerala.
 5. Order dated 13.12.2023 in SLP (Civil) diary no. 49751/2023 by the Hon'ble Supreme Court of India.

ORDER

Sri K Suresh, Assistant Professor, Department of Physical Education filed OA 2312/2018 before the Honourable Kerala Administrative Tribunal, praying revision of the date of effective promotion granted as Lecturer Selection Grade and Associate Professor reckoning the service in the Collegiate Education Department with effect from 01.07.1999.

2. Sri. K Suresh entered service as Instructor, in Government Polytechnic, Kannur on 17.12.1990 FN. After acquiring NET qualification and M.Phil in Physical Education, he sought by transfer appointment as Lecturer in Physical Education and was appointed as Lecturer on 16.06.2003. The applicant thereupon sought reassignment of the date of promotion pointing out that vacancies were available as on the date of his acquisition of NET qualification (01.07.1998).

3. As per Government order read 2nd paper above the Government have granted notional promotion to Sri. K Suresh, w.e.f 1.7.1999, the date of occurrence of vacancy after he had acquired qualification as prescribed in Special Rules, without eligibility for any back arrears.

4. As per judgment read as 3rd paper above, the Hon'ble Tribunal directed to grant placement to Sri. K Suresh as Lecturer Selection Grade and Associate Professor, as per the relevant UGC schemes, taking note of the fact that the 6th UGC scheme was brought into force with effect from 18.09.2010 and to grant placement reckoning the service in the Collegiate Education Department with effect from 01.07.1999. The applicant retired on 31.03.2019.

5. Challenging the direction to reckon the period granted as notional promotion for further placement as per the UGC Scheme, Government filed OP(KAT) No. 386/2020 before the Hon'ble High Court of Kerala and as per the judgment read as 4th paper above, the Hon'ble High Court dismissed the same.

6. The SLP filed by the State of Kerala before the Hon'ble Supreme Court against the judgment dated 16.03.2023 in OP(KAT) 386/2020 was dismissed by the Hon'ble Supreme Court before admission by order dated 13.12.2023.

7. Now, in view of the dismissal of SLP (Diary) No. 49751/2023 confirming the judgment dated 16.03.2023 in O.P(KAT) No. 386/2020 of the Hon'ble High Court of Kerala, the directions contained in the final order of the OA No. 2312/2018 of the Hon'ble Kerala Administrative Tribunal is to be complied with.

8. While granting the benefits, the Hon'ble KAT observed that even though the UGC Scheme and the Government order read as 1st paper above do not contain any provision for reckoning the notional placement, Government was pleased to grant the incumbent, the benefits of reckoning the notional promotion for grant of senior scale placement.

Now, the Government cannot go against the specific stand already taken and deny the benefits to the applicant.

9 . At this juncture, it will be useful to have a reference of Government order read as 1st paper above, which lays down certain conditions for the grant of placements to the employees: -

Clause 6.20 outlines the rules for Career Advancement in the academic field. To be eligible to move into the grades of Lecturer (Senior Scale), a Ph.D holder should have a minimum length of service of four years. For those who wish to move into the Grade of Lecturer (Selection Grade/Reader), the minimum length of service should be five years. Additionally, the minimum length of service as Lecturer (Senior Scale) should be uniformly five years. Sections 6.25 and 6.26 specify the requirements for placement as Lecturer (Senior Scale) and Lecturer (Selection Grade), respectively.

6.25. *A Lecturer will be eligible for placement on a senior scale through a procedure of selection if she/he has:*

1. Completed 6 years of service after regular appointments with the relaxation of one year and two years, respectively, for those with M.Phil and Ph.D. ;

2. Participated in one orientation course and one refresher course of approved duration, or engaged in other appropriate continuing education programs of comparable quality as may be specified or approved by the University Grants Commission (Those with Ph.D degrees would be exempted from one refresher course).

3. Consistently satisfactory performance appraisal reports.

6.26. *Lecturers in the Senior Scale who do not have a Ph.D. degree or equivalent, published work, who do not meet the scholarship and research standards, but fulfill the other criteria given above for the post of Reader, and who have a good record in teaching and, preferably have*

contributed in various ways stitch as to the corporate life of the institution, examination work, or through extension activities, will be placed in the Selection Grade subject to the recommendation of the Selection Committee which is the same as for promotion to the post of Reader. They will be designated as Lecturers in the Selection Grade. They should offer themselves for fresh assessment after obtaining a Ph.D. and /or fulfilling other requirements for promotion as Reader and, if found suitable, could be given the designation of Reader.

10. From a perusal of the above extract of the Government order read as 1st paper above, it can be seen that as a general rule, there is no provision to reckon the notional promotion for further placement.

11. Now the Government have examined the matter in detail and are pleased to entrust the Director of Collegiate Education to grant placement to Sri. K Suresh, Assistant Professor (Rtd), as Lecturer Selection Grade and Associate Professor, with effect from 18.09.2010 and to grant placements reckoning his service in the Collegiate Education Department with effect from 01.07.1999.

12. It is made clear that this order will not be treated as a precedent for claiming notional promotion with reference to the date of occurrence of vacancy and the date of acquisition of qualification for conferment of any benefit under the career advancement scheme.

13. Thus, the Order of the Hon'ble Kerala Administrative Tribunal dated 26.07.2019 in OA No.2312/2018 filed by Sri.K. Suresh stands complied with.

(By order of the Governor)
SINI J SHUKKOOR
ADDITIONAL SECRETARY

To:

1. Advocate General, Thiruvananthapuram.(with C/L).
2. Shri Suresh K, Assistant Professor (Rtd.), Suresh Bhavan, Maniyar

P/O, Punalur, Kollam - 691333

3. Director, Collegiate Education Department, Thiruvananthapuram.
4. Finance Department (Education - 1342236/Edu-C2/334/19-Fin dated 11.11.2019).
5. General Administration (SC) Department (Item No.2138 dated. 20.03.2024)
6. Law Department (3707/Suit II(2)/2020/Law dated 21.05.2020)
7. Principal Accountant General (Audit), Thiruvananthapuram.
8. Information Officer, Web and New Media.
9. The Nodal Officer (www.highereducation.kerala.gov.in)
10. Stock File/Office Copy (F1/431/2018/HEDN).

Forwarded /By order

Section Officer

1. PS to Minister Higher Education
2. PA to Principal Secretary, Higher Education Department
3. CA to Additional Secretary, Higher Education (F) Department