

News

The Supreme Court mandates an honorarium in accordance with UGC standards, rejecting pay parity for guest lecturers.



The Kerala High Court's decree granting guest lecturers pay parity with regular Assistant Professors has been modified by the Court, which ruled that contractual personnel are not entitled to the same compensation as permanent academics.

The Supreme Court noted that guest lecturers are subject to the particular conditions of their contracts and **University Grants Commission (UGC)** standards, and they carry out different responsibilities than permanently appointed instructors.

The Kerala High Court's ruling that the writ petitioners were not entitled to the benefits of regularization on the grounds that the University was taking work away from teachers was

being challenged by the Court in a special leave petition. The High Court ordered the University to pay the writ applicants the emoluments equivalent to the gross salary received by regularly appointed Assistant Professors.

"This finding of the learned Single Judge as modified and approved by the Division Bench is not in consonance with the pleadings and also contrary to the pleadings as well as the settled position of law, namely that the writ applicants as Guest Lecturers could not be discharging the same duties as that of the regularly appointed teachers would not be entitled to the same pay," noted the Bench of Justices Aravind Kumar and PB Varale. Therefore, it would not be detrimental to us to set aside the aforementioned finding, and as such, it is set aside."

Senior Advocate K.P. Kylasnatha Pillay represented the Respondents, while Senior Advocate Vibha Dutta Makhija represented the Appellants.

A Synopsis of the Case

The Appellant-University contractually appointed the writ applicants/Respondents as guest lecturers on different dates. The writ applicants/respondents filed writ petitions because their prayer for regularization was not taken into consideration. The Single Judge ordered the University to take a call for regularization of services, and the University may ask the relevant Government to increase the number of sanctioned posts, if necessary, or regularize them in the current sanctioned posts. Appeals against the orders were filed because they felt wronged by the same writ.

By the contested order, the Division Bench of the High Court determined that the writ applicants/Respondents were ineligible for regularization because they had not worked for the sanctioned posts for more than ten years. After observing that the University was using contract appointments to fulfill its teaching responsibilities and that this would amount to exploitation, the Single Judge partially overturned the order and ordered the University to pay employees' salaries equal to the gross salary of regularly appointed Assistant Professors, but only for the three years prior to the said order. The University was therefore in front of the Supreme Court.

The Court's observations

Insofar as the parity issue was concerned, the Court set aside the Single Judge's finding as upheld by the Division Bench because, first, the writ petitioners did not request a prayer

regarding the pay parity in the writ application or in any other pleading; second, it was not even brought up during the argument, either before the Single Judge or the Division Bench. The Court stated, "The Division Bench appears to have extended the benevolence in the pursuit of substantial justice by concluding that the writ applicants would be entitled to pay parity, that is, the pay scale paid to Assistant Professors who were regularly appointed, because they had worked for a considerable amount of time. As can be seen from the writ appeal, wherein it was explicitly argued that the duties and responsibilities of the Guest Lecturers are different and distinct from those of regularly appointed Assistant Professors, the University has actually raised a ground in this regard while challenging the order of the learned Single Judge in the intra-court appeal.

According to the Court, the writ applicants cannot now claim that they should have been regularized or demand pay parity for the many years they have worked as guest lecturers because they signed into a contract year after year and continued as such. According to the updated UGC guidelines dated January 28, 2019, which are documented, the honorarium for visiting faculty members has been set at a maximum of Rs. 50,000. The Court stated, "We are unable to accept the said contention in view of our findings and observations made hereinabove and in light of the UGC guidelines glaring at them, even though the learned Senior Advocate and other advocates appearing for the writ applicants have made a fervent appeal that the relief granted by the High Court extending the pay parity to the petitioners to that of the salary paid to the Assistant Professors is attractive at first blush."

It was noted that the petitioners had reached the age of superannuation, and even in order to continue receiving financial benefits, the writ applicants' claim that they should be regularized and paid the same salary as assistant professors was rejected. It is also a well-established legal principle that in cases of contractual employment, the writ applicants should be treated equally with other teachers who were employed on a regular basis and should not argue that the contract should be disregarded. Therefore, the Division Bench's conclusion that the writ petitioners' services had been exploited was unjustified, and as a result, the Division Bench's recorded finding is likewise set aside, the Court noted.

The Court determined that, in accordance with UGC guidelines, the Respondents in this case would be entitled to consolidated compensation of Rs. 50,000/-per month, which would be paid by the appellant-University for the period of five years prior to their order of termination rather than the three years as limited by the Division Bench, as this would serve the interests of justice.

The Court changed the contested order as a result.

Cause Title: Sree Sankaracharya University Of Sanskrit & Anr. v. Unnikrishna Pillai J.
[SLP(C) Nos.17549-17553/2022]

Appearances:

Appellants: Senior Advocate Vibha Dutta Makhija, Senior Advocate K.P. Kylasnatha Pillay, Advocate on Record Keith Varghese, Advocate on Record Rashmi Singhania, Advocate on Record Abid Ali Beeran P, Advocate Praveen Gaur, Advocate Nitish Pande, Advocate Sarath S Janardanan, Advocate Sriram P, Advocate Muhammed Haneeff, Advocate Mh Asif Ali, Advocate Ashik Ali, Advocate Vishnupriya P Govind.

Respondents: Senior Advocate K.P. Kylasnatha Pillay, Advocate on Record Abid Ali Beeran P, Advocate on Record Keith Varghese, Advocate on Record Harshad V. Hameed, Advocate on Record Rashmi Singhania, Advocate Sarath S Janardanan, Advocate Sriram P, Advocate Muhammed Haneeff, Advocate Mh Asif Ali, Advocate Ashik Ali, Advocate Vishnupriya P Govind, Advocate Dileep Poolakkot, Advocate Ashly Harshad, Advocate Mahabir Singh, Advocate Arunender Thakur, Advocate Anshul Saharan, Advocate Nitish Pande.