

Supreme Court of India

JUSTICE UDAY UMESH LALIT, JUSTICE S. RAVINDRA BHAT, JUSTICE SUDHANSU DHULIA.

DR. JACOB K. DANIEL v. MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS & ANR.

CIVIL APPEAL Nos.3887-3888 OF 2022

11th May 2022

Petitioner Counsel: PRASEENA ELIZABETH JOSEPH, Respondent Counsel: SAKSHI KAKKAR HARSHAD V. HAMEED

Cases referred to:

1. *Para 8: Abdul Hakeem M.A. v.. Mahatma Gandhi University & Others, Civil Appeal Nos.4251-4252 of 2018, reported in (2019) 16 SCC 328*

JUDGEMENT

1. These appeals challenge the judgment and order dated 20.11.2015 passed in Writ Appeal No.339 of 2015; and order dated 20.09.2017 passed in Review Petition No.3 of 2016 arising out of the disposal of Writ Appeal No.339 of 2015, by the High Court of Kerala at Ernakulam.

2. The Special Leave Petitions from which the instant appeals arise were initially listed with batch of petitions [i.e. SLP (C) Nos.4251-4252 of 2018] filed by the teaching staff of Mahatma Gandhi University questioning the judgment and orders which are presently under challenge.

3. The appeals filed by other members of the teaching staff were allowed and the judgment and orders under appeal were set-aside and the order dated 08.01.2014 passed by the Single Judge was restored. The matter concerning the instant appellant was however segregated as some of the documents were found to indicate that the appointment of the appellant was temporary. The matter was therefore directed to be listed in due course.

4. We have heard Ms. Praseena Elizabeth Joseph, learned Advocate in support of the appeals and Mr. Sidharth Luthra, learned Senior Advocate for the University.

5. Learned counsel for the appellant invited our attention to the Notification dated 15.07.1996 inviting applications from the qualified candidates for filling up inter alia post of Lecturer in Mathematics in the Pay Scale of Rs.2200-4000/- . The appellant who was then working as a Senior Lecturer in Pondicherry Engineering College offered his candidature and he was selected. The appointment letter issued to the appellant was as under:

"With reference to his/her application for the post of Lecturer in the College of Engineering, Thodupuzha, under School of Technology and Applied Sciences of the University, Sri Dr.

Jacob K. Daniel is informed that he has been selected for appointment as Lecturer in Mathematics in the scale of Rs.2,200 – 4,000 /-. He is therefore, directed to report for duty before the Director, School of Technology and Applied Sciences forthwith along with a Medical Certificate of fitness as required in Rule-13 Part I Kerala Services Rules obtained from a Medical Officer not below the rank of Assistant Surgeon in a Government Hospital.

He is informed that his appointment in the University will be governed by the provisions in Mahatma Gandhi University First Statutes, 1991.”

6. Thereafter, at the request of the appellant, the matter was considered by the University for protecting his basic pay which he was drawing as a Senior Lecturer in Pondicherry Engineering College. By communication dated 31.07.1998, the pay of the appellant was fixed at Rs.3500/- in same pay scale.

7. All these developments are indicative that the appointment of the appellant was not on any temporary basis but it was a permanent appointment in the University.

8. We, therefore, allow these appeals on same terms as indicated in our judgment and order dated 28.02.2019 passed in *Abdul Hakeem M.A. v. Mahatma Gandhi University & Others, Civil Appeal Nos.4251-4252 of 2018*, reported in (2019) 16 SCC 328.

9. Since the appellant has retired, all the retiral and pensionary benefits shall be computed on the basis that he was in permanent employment of the University and all the dues shall be made over to the appellant within eight weeks from today.

10. These appeals are accordingly allowed, with no order as to costs.