2026 INSC 207

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. ……. OF 2026

[ARISING OUT OF SLP (CIVIL) NO. 8737 OF 2021]

DR. JIJI K.S. & ORS. … APPELLANTS

VERSUS

SHIBU K & ORS. … RESPONDENTS

WITH

SLP (CIVIL) NO. 18961/2022

DR. BINDU KUMAR K … PETITIONER

VERSUS

DR. V. VENU IAS … RESPONDENT

J U D G M E N T

DIPANKAR DATTA, J.

1. Leave granted in SLP (C) No.8737 of 2021.

2. The dispute before us has had a litigious history and hence, a reference to the previous round of litigation would be necessary to understand the factual background.

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Date: 2026.02.27 17:08:25 IST
Reason:

3. Rule 6A of the Kerala Technical Education Service (Amendment) Rules, 2004 was introduced by way of an amendment on 18th September, 2004. Rule 6A reads as follows:

> 6A. Exemption from qualification:
> (i) Candidates appointed as Lecturer in Engineering Colleges in the Technical Education Department on or before the 27th March 1990, who have completed 45 years of age on the date of notification published for filling up the posts of Professor, Joint Director (Engineering College Stream) and Director of Technical Education as the case may be are exempted from acquiring Ph.D. Degree for eligibility for the above posts.
> (ii) Candidates applying for the post of Assistant Professor are exempt from possessing Ph.D. Degree but they have to acquire Ph.D. Degree within seven years of the appointment to the post of Assistant Professor as stipulated by the All India Council for Technical Education.

4. The amendment was in compliance with a notification dated 15th March, 2000 of the All India Council of Technical Education[1], which prescribed minimum qualifications (being a Ph. D degree with a first-class degree at the Masters or Bachelor level) as the qualification for appointment as Assistant Professor (re-designated as Associate Professor w.e.f. 1st January, 2006). By another notification dated 18th February, 2003, the AICTE permitted promotion to the post of Associate Professor before acquiring Ph. D. qualification while granting a seven-year relaxation for acquiring the same.

5. Rule 6A came to be challenged before the High Court of Kerala[2]. A Single Judge struck down the rule. The decision came to be upheld by the Division Bench. The judgment of the Division Bench was the subject matter of challenge before this Court in Civil Appeal No. 4604

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[1] AICTE
[2] High Court

of 2016 (Christy James Jose v. State of Kerala[3]). This Court, vide judgment and order dated 26th April 2016, set aside the impugned judgment and order of the High Court by observing as follows:

> **16.** Therefore, in effect as on date the non-acquisition of PhD can at best result in stoppage of increment after the prescribed period of 7 years and the resultant position would be that the same cannot result in either restraining or doing away with their appointment to the post of Assistant Professor for failure to acquire the said qualification even within the stipulated period of 7 years.
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> **17.** Having regard to the fact situation narrated above, while setting aside the impugned judgment [*Anandavally M.K.* v. *P.G. Jairaj*, 2013 SCC OnLine Ker 23641] of the Division Bench of the High Court as well as that of the learned Single Judge, we hold that the appointments of the appellants are not in any way contrary to the prescription of the required qualification by AICTE and the qualification prescribed under Special Rule 6-A(2) is also in tune with the qualification prescribed by AICTE in its Notification dated 18-2-2003.

6. Appellants had also approached this Court following the similar route. They too were granted relief as above on their appeal[4], in the following terms:

> 1. Leave granted. The application for impleadment is allowed. The civil appeal is disposed of in terms of the order dated 26-4-2016 passed in *Christy James Jose* v. *State of Kerala* [*Christy James Jose* v. *State of Kerala*]. The said order shall hold good for this appeal as well.

7. A contempt petition[5] before this Court had been filed by the appellants seeking implementation of the above judgment in their favour. In the meanwhile, by a Government Order[6] dated 7th March, 2019, the appellants were promoted to the cadre of Associate Professor with retrospective effect[7]. Thus, the contempt petition came to be disposed

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[3] (2024) 16 SCC 718
[4] Civil Appeal No. 4502 of 2016 arising out of SLP (C) 7556 of 2014 (Jiji K.S. v. L.B.S. Center for Science & Technology)
[5] Contempt Petition (C) No.1815 of 2017 in Civil Appeal No.1502 of 2016
[6] GO (Ms) No. 68/2018/HEDN
[7] Petitioner No.1 – Jiji K.S. w.e.f. 21st June 2012; Petitioner No.2 – Johnson Mathew w.e.f. 1st April, 2011; Petitioner No.3 – Bindumol EK w.e.f. 1st April, 2014

of noting that the order of this Court had been complied with. The order reads thus:

> There is no reason to entertain this contempt petition any further since the order dated 28.04.20216 passed by this Court in Civil Appeal No. 4502 of 2016, has been admittedly complied with by the alleged contemnor-respondent. Hence, the contempt petition is disposed of.
> However, any grievance on the merits of the aforesaid order may be agitated before the appropriate forum.

8. Thereafter, Original Applications[8] were filed before the Kerala Administrative Tribunal[9] challenging several GOs issued by the Government of Kerala, which ordered promotion and reversions to the cadre of Associate Professor, Professor, and Principal. The GO by which the appellants were promoted was, however, not under challenge before the KAT. KAT, by its order dated 5th March, 2020, allowed the respective OAs and quashed the promotions and reversions carried out in terms of the GOs under challenge.

9. The aggrieved parties challenged the order of the KAT before the High Court, which resulted in passing of the impugned order dated 3rd December, 2020. The operative portion of the impugned order, which has left the appellants aggrieved, reads as follows:

> 23. In the light of our findings we hold as follows:-
> a. The Kerala Technical Education Service Rules framed by the State under Article 309 of the Constitution of India read with the provisions of the Kerala Public Services Act, 1968 will be subject to Regulations framed by the AICTE regarding the qualifications, method of appointment etc. and the Rules framed by the State would, to the extent it is repugnant to the Central Act/Regulations, be void and inoperative. The AICTE Regulations have to be followed even in the absence of any enabling Rule or Regulation in the State Rules;
> b. Those persons who were promoted on regular basis as Professors prior to 5-3-2010 are not required to have the qualification of Ph.D to

[8] OA (Ekm) 500 & 501 of 2019 and other connected matters
[9] KAT

be promoted as such in view of the law laid down by the Supreme Court in the judgment in Civil Appeal No.4502/2016 and connected cases;
c. Rules 6A(i) and 6A(ii) have no application beyond 5-3- 2010, the date on which "Pay Scales, Service Conditions and Qualifications for The Teachers And Other Academic Staff In Technical Institutions Degree Regulations, 2010" were issued by the AICTE. In other words, after 5-03-2010, the qualification of Ph.D is mandatory for the posts of Principals, Professors and Associate Professors (re-designated post of Assistant Professor);
d. The clarifications issued by the AICTE in a question answer format on 4-01-2016 relate only to those Assistant Professors (Re-designation as Associate Professors was only after 5-3-2010) who were promoted on regular basis between 18-2-2003 and 5-3-2010;
e. Those promoted on regular basis as Assistant Professor (now Associate Professor) between 18-2-2003 and 5-3-2010 will be entitled to count their service from the date of promotion as Associate Professor for the purpose of determining experience for further promotions notwithstanding the fact that they did not have the qualification of Ph.D on the date of their promotion and notwithstanding the stipulations in Rule 10(ab) of Part-II of the KS&SSR;
f. The posts of Principals, Professors and Assistant Professors (now redesignated as Associate Professor), being selection posts in respect of which a select list, has to be prepared in accordance with the provisions of Rule 28(b) of Part-II of the KS&SSR, the stipulation in Rule 28(b)(iA) that the person concerned must be qualified on the date of occurrence of the vacancy is applicable in the matter of promotion to these posts;
g. Since regular selections to the posts of Associate Professors (earlier Assistant Professor), Professors and Principals have been held up for quite some time (the notification issued in 2004 for selection to the posts of Professors, the notification issued in 2014 for selection to the posts of Associate Professors (earlier Assistant Professor), Professors and Principals, and the notification issued in 2016 for selection to the posts of Associate Professors (earlier Assistant Professor), Professors and Principals were all cancelled or the process stopped midway) and since the State Government has issued orders granting provisional/temporary promotions under Rule 31(a)(i) of Part-II of the KS&SSR without understanding the scope and intent of the judgments rendered by the Tribunal and the Supreme Court, we hold that persons who are found entitled to regular promotion but were not granted such promotion will also be treated as if they had been granted regular promotion from the date on which they are found so entitled. **For example:-** a person found entitled to regular promotion as Professor prior to 5-3-2010 will be entitled to such promotion without having the qualification of Ph.D and a person found entitled to promotion as Assistant Professor/Associate Professor prior to 5-3-2010 will be entitled to the benefit of the 7 year period to obtain the qualification of Ph.D and will also be entitled to count their service from the date of promotion in view of our finding that the stipulation in Rule 10(ab) that experience must be one gained after acquisition of qualification will not be applicable to persons who are promoted between 18-2-2003 and 5-3-2010. This direction/ this finding is only on account of the fact that

> regular promotions have been held up for quite some time and there may be persons who were not promoted either provisionally or on a regular basis from the date of their actual entitlement. These directions will apply only if such a situation exists.
> h. The Government shall while ordering regular promotions in accordance with the directions contained in this judgment will also determine the issue of eligibility for placement/redesignation under the Career Advancement Scheme (CAS) strictly in accordance with the applicable AICTE Regulations. If the acquisition of any qualification is mandatory for such placement/redesignation under CAS the same shall be insisted upon.

10. Appellants, who were not parties to the petition before the High Court or the KAT, are aggrieved by the directions of the High Court. It is their contention that benefits flowing from the judgment of this Court in their favour has been undone by the High Court.

11. Similarly, the petitioner in the connected matter, i.e., SLP (C) 18961 of 2022, approached the High Court by way of a contempt petition[10] alleging that the High Court's above judgment dated 3rd December, 2020 prejudicially affected his date of promotion which was reassigned to his disadvantage. The High Court, by the impugned order dated 24th June 2022, refused to enter into individual factual finding and left it open to be adjudicated before the appropriate forum. For convenience, the order is reproduced as under:

> 2. Smt. Vaheeda Babu, the learned counsel appearing for the petitioner would content that in so far as the petitioner is concerned, he has been prejudicially affected as the date of promotion as professor has been reassigned to his disadvantage. Since we have not considered individual cases while rendering our judgment, it will be inappropriate for us to enter into any factual finding as to whether the petitioner was so disadvantaged, in violation of the judgment of this Court.
> Taking note of the submission of the learned Government Pleader and the learned counsel appearing for the petitioner, the Contempt of Court case is closed, making it clear that any grievance of the petitioner regarding the date of assignment of promotion as professor and consequential seniority

[10] Contempt Case No. 1780 of 2021

in the cadre of Professor will be left open for adjudication before the appropriate forum.

12. In the appeal, several interim applications have been filed seeking intervention on similar grounds.

13. With respect to the appellants, it is evident that they were promoted in compliance with the order of this Court dated 28th April, 2016. In fact, the contempt petition pursued by the appellants came to be dismissed by this Court on 25th March, 2019 noting that the order had been complied with.

14. Mr. Jaideep Gupta, learned senior counsel appearing for the appellants has urged, and rightly so in our view, that the High Court could not have, in essence, revisited this Court's order *qua* the appellants. This Court, having granted an order in favour of the appellants, there could arise no occasion for the High Court to disturb the finality attached to the same. However, at the same time, had the appellants been impleaded and represented before the High Court and the order of this Court been placed before it, we wonder whether the occasion for the appellants to approach this Court would at all have arisen.

15. Be that as it may, limited to the appellants' claims in the appeal, the appeal ought to be and is hereby allowed with the observation that nothing said in the impugned order of the High Court will affect their career prospects in view of the special facts noticed above.

16. Adverting to the connected special leave petition and the interim applications in the appeal, we are not left to do anything much. Petitioner/applicants, if indeed they are aggrieved by any

judgment/order of the High Court in proceedings where they were not parties, are not without a remedy.

17. We refer to the observations made by this Court in ***K. Ajit Babu v. Union of India***[11] wherein, referring to persons aggrieved by a decision of the high court in proceedings to which they were not parties, the following observations were made:

> **4.** …Often in service matters the judgments rendered either by the Tribunal or by the Court also affect other persons, who are not parties to the cases. It may help one class of employees and at the same time adversely affect another class of employees. In such circumstances the judgments of the courts or the tribunals may not be strictly judgments in personam affecting only the parties to the cases, they would be judgments in rem. In such a situation, the question arises: What remedy is available to such affected persons who are not parties to a case, yet the decision in such a case adversely affects their rights in the matter of their seniority. In the present case, the view taken by the Tribunal is that the only remedy available to the affected persons is to file a review of the judgment which affects them and not to file a fresh application under Section 19 of the Act. Section 22(3)(*f*) of the Act empowers the Tribunal to review its decisions. Rule 17 of the Central Administrative Tribunal (Procedure) Rules (hereinafter referred to as "the Rules") provides that no application for review shall be entertained unless it is filed within 30 days from the date of receipt of the copy of the order sought to be reviewed. Ordinarily, right of review is available only to those who are party to a case. However, even if we give wider meaning to the expression "a person feeling aggrieved" occurring in Section 22 of the Act whether such person aggrieved can seek review by opening the whole case has to be decided by the Tribunal. The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an end to law suits and if the view of the Tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a

[11] (1997) 6 SCC 473

right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation.

(emphasis ours)

18. The decision in ***K. Ajit Babu*** (supra) was further relied on by this Court subsequently in ***Rama Rao v. M.G. Maheshwara Rao***[12] which, going a step further, permitted a person aggrieved by any judgment/order of the high court to approach the tribunal afresh under Section 19 of the Administrative Tribunals Act, 1985. The relevant observations read thus:

> **8.** This contention raised was met by the High Court by pointing out that even though the assistants belong to a different cadre, since there was a confluence of the two streams leading to the promotional posts, the assistants had locus standi to file an application under Section 19 of the Act in which, to ventilate their grievances they could canvass the correctness of the decision earlier rendered on 6-7-1994 by the Administrative Tribunal. The High Court referred to the decision in *K. Ajit Babu* v. *Union of India* [(1997) 6 SCC 473] to find that the proper procedure to be adopted by persons situated like the assistants in this case and who were not made parties to a prior decision which had effect on their career, was to move an application under Section 19 of the Act. In that decision, this Court noticed that even though the judgment of an Administrative Tribunal may only be a judgment in personam, occasionally, it could also operate as a judgment in rem and those affected by it had the right to approach the Tribunal again with an application under Section 19 of the Act when they are affected as a consequence of the earlier decision and are entitled to seek reconsideration of the view taken in the earlier decision. The High Court, following it, held that the assistants had the locus standi to move the application under Section 19 of the Act before the Tribunal and seek reconsideration of the earlier decision passed by it without notice to them and to show that the said order required reconsideration or that it was not a legal or a proper one. We see no reason not to accept the reasoning adopted by the High Court. After all, the assistants who were not impleaded in the earlier proceeding must have an avenue to ventilate their grievances. This Court has indicated that that avenue is an approach to the Tribunal and that was in a case in which the very same Act was involved. This Court had also pointed out what the Administrative Tribunal could do in such a situation. If this were not the position, the assistants would be able to say that since they were not parties to the earlier proceedings, they were not bound by it and they are entitled to ignore the decision therein and that the said decision cannot affect them since it would be a decision that is void in law

[12] (2007) 14 SCC 54

> for non-compliance with the rules of natural justice. There is, therefore, no grace in the submissions that the assistants could not have approached the Administrative Tribunal with their grievance and the Tribunal could not have considered their grievance or gone back on its earlier decision. We are in agreement with the approach made by the High Court and the conclusion arrived at by it and hence have no hesitation in overruling this contention. The argument that the jurisdiction of the High Court came to be recognised only later, cannot change the situation, since when the High Court entertained the writ petition it had the jurisdiction to do so and it had jurisdiction also to consider what was the effect of the earlier order or the proceeding before it and whether the earlier order was legal and justified in the context of the decision of this Court in *Ajit Babu case* [(1997) 6 SCC 473].
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> (emphasis ours)

19. Not too long back, this Court in ***Union of India v. Nareshkumar Badrikumar Jagad***[13] ruled that even a non-party to the proceedings, if he/it perceives to be in the position of a person aggrieved and satisfies the court as such, can seek review of an order passed therein.

20. In view of the dicta in the aforesaid decisions, it is open to the intervenors as well as to the petitioner in the connected special leave petition to pursue their remedy in accordance with law. Granting them the liberty to pursue an appropriate remedy before the appropriate forum, if so advised, the connected special leave petition and the interim applications for intervention and all other pending applications, if any, stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(ARAVIND KUMAR)

New Delhi;
February 27, 2026.

[13] (2019) 18 SCC 586