

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
(SPECIAL LEAVE PETITION (CIVIL) NO(s).30451-30454 OF 2019)

THE STATE OF KERALA & ANR. APPELLANT(S)

VERSUS

BEENA CHANDRAN & ORS. RESPONDENT(S)

O R D E R

1. Heard.

2. Leave granted.

3. The main question before us is: from what date the approval of the respondents' appointment is to be reckoned viz whether wef G.O. dated 26.02.2011 or from the G.O. dated 14.08.2012. The respondents herein are the teaching staff and had sought for approval of their appointment as teaching staff at the "Doctor Padiyar Memorial Homeopathic Medical College, Ernakulam" (Medical College). The respondents were originally appointed by the management of the medical college before the introduction of the Direct Payment System. Following the introduction of the Direct Payment System, the Government permitted the creation of 20 posts in various departments to align the staff strength with the Central Council of Homeopathic (CCH) norms, which prescribed a total strength of 43 teaching posts. Consequently, 20 posts were created and sanctioned in the medical college in view of abolishment of 23 posts vide G.O. dated 26.02.2011.

4. Subsequently, the Government of Kerala issued a G.O. dated 14.08.2012 stipulating the modified or enhanced strength of the teaching staff to be 43 namely to be in conformity with CCH Norms. We also note that 47 teaching staff members working at the medical college, only 43 are to be engaged as per CCH Norms, which structured the total strength as under:

Professor - 13 posts

Reader - 15 posts

Lecturer - 15 posts

This pattern effectively limited the post in the medical college to 43 and the remaining 4 excess teaching staff members were to be accommodated against supernumerary posts.

5. Although the promotions of the respondents herein were given effect to, their salaries were not disbursed promptly. Aggrieved by the inaction of the appellant(s) herein, the respondents invoked the writ jurisdiction of the High Court of Kerala by filing WP(C) Nos.25569/2016, 30533/2016, 1913/2017 and 31564/2017 claiming that the approval of their appointments/promotions be made effective from 26.02.2011 and not on 14.08.2012, alongwith the consequential monetary notice. By an order dated 23.03.2018, the learned Single Judge allowed the writ petitions by opining that the G.O. dated 14.08.2012 merely restricted the sanctioned posts to 43 instead of 48 making it an order that simply limiting the number of posts in consonance with CCH Norms. This reasoning of the learned Judge was based on the reasoning that appointments to all the 43 posts were made wef 26.02.2011 and therefore the date of the respondents' appointment should also be taken from 26.02.2011 and not from 14.08.2012.

6. Assailing the said order of the learned Single Judge, the State filed intra-court appeals in Writ Appeal Nos. 1536/2018, 132/2019 1575/2018 and 2039/2018. The Division Bench vide impugned order dated 18.02.2019 held that although G.O. dated 26.02.2011 recognized the strength of 48 teaching staff members, it had only sanctioned the creation of 20 posts therefore the G.O. dated 14.08.2012 was in fact a rectificatory order to correct the anomaly that had crept in. In other words, the Division Bench by upholding the order of the learned Single Judge was of the view that the approval of respondents' appointments to the promotional post, is to reckoned from 26.02.2011 as it was through this order the sanction was effectively accorded to all posts created in compliance of CCH Norms, which mandated the number of posts should be 43.

7. At the outset, we deem it appropriate to note that the posts created and sanctioned by way of two (2) Government Orders referred to herein supra, are all promotional posts. Clear submissions were canvassed by the appellants to this effect and reiterated before the learned Single Judge and Division Bench of the High Court.

8. Mr. Jaideep Gupta, learned senior counsel appearing for the appellants reiterating the grounds urged in the appeal, would fairly submit that in respect of 8 employees, who were covered under the G.O. dated 14.08.2012, have been paid by the State namely differential pay for the period from 26.02.2011 to 14.08.2012 and would hasten to add that this amount was paid on account of the contempt proceedings having been initiated by these employees and to stave off the same the differential pay were paid.

9. Learned counsel appearing for the respondents led by Mr. V Chidambaresh, learned senior counsel, Mr. Lakshmeesh S. Kamath and Mr. Venkita Subramoniam T.R, learned AORs who effectively assisted them have supported the impugned order and have prayed for dismissal of the appeals.

10. It is an undisputed fact that the creation of the posts was by abolishment of the existing tutors' posts. The nature of work was same and there is no contra material made available before this Court that the promotional posts carry a different work to be carried out or, in other words, the nature of duties for these two posts are different. In the light of the same and also the fact that out of the 43 posts which were created under two G.Os namely 26.02.2011 and 14.08.2012 to be in conformity with CCH Norms, the natural heartburn of the employees who have been deprived of the benefits flowing from the original order, cannot be construed as contrary to legitimate claim.

11. Taking all these aspects into consideration and particularly that apart from the 20 persons who were covered under 26.02.2011 who have been granted the benefit of salary to the promotional posts w.e.f. the said date and also the fact that 8 persons who are covered under the G.O. dated 14.08.2012 were also extended the same benefit if other remaining employees are deprived it would be hit by Article 14 of the Constitution of India as *ex facie* it would be discriminatory. However, we make it clear that the proposition propounded by Mr. Jaideep Gupta, learned Senior Counsel to the effect that the issue relating to entitlement of salary is from the date of creation of the posts, there cannot be any two opinions on this. However, in the instant case, we notice, at the cost of repetition, that respondents herein namely the writ petitioners before the High Court, were similarly placed as that of the

employees who had been promoted by virtue of G.O. dated 26.02.2011 and they would also be entitled to for the same pay wef 26.02.2011 as held by the learned Single Judge and affirmed by the Division Bench.

12. Hence, in the peculiar facts of this case, which has been canvassed, we are not inclined to entertain these appeals and accordingly they stand dismissed leaving open the question of law. No order as to costs.

13. All pending applications stand consigned to the records.

.....J.
(ARAVIND KUMAR)

.....J.
(V. MOHANA)

New Delhi;
July 21, 2026.

ITEM NO.40

COURT NO.11

SECTION XI-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 30451-
30454/2019

[Arising out of impugned final judgment and order dated 18-02-2019 in WA No. 1536/2018 18-02-2019 in WA No. 1575/2018 18-02-2019 in WA No. 2039/2018 18-02-2019 in WA No. 132/2019 passed by the High Court of Kerala at Ernakulam]

THE STATE OF KERALA & ANR.

Petitioner(s)

VERSUS

BEENA CHANDRAN & ORS.

Respondent(s)

FOR ADMISSION and I.R.

IA No. 31004/2021 - CLARIFICATION/DIRECTION

IA No. 97587/2022 - EXEMPTION FROM FILING O.T.

IA No. 97586/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 83917/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 118747/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 21-07-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MRS. JUSTICE V. MOHANA

For Petitioner(s) :Mr. Jaideep Gupta, Sr. Adv.
Mr. Sayid Marzook Bafaki, AOR

For Respondent(s) :Mr. V Chidambareesh, Sr. Adv.
Mr. Kedar Nath Tripathy, AOR

Mr. Lakshmeesh S. Kamath, AOR
Ms. Samriti Ahuja, Adv.

Ms. Aditi Prakash, Adv.
Ms. Anushka Singhal, Adv.

Mr. P. Sreekumar, Sr. Adv.
Mr. Venkita Subramoniam T.R, AOR
Mr. Hari Vishnu, Adv.

Mr. Romy Chacko, Sr. Adv.
Mr. Anup Kumar, AOR
Mr. Joe Sebastian, Adv.
Mr. Sachin Singh Dalal, Adv.
Mr. Akshat singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard.

Leave granted.

Appeals are dismissed in terms of the Signed Order which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(RASHI GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)