

**A. Thimmegowda Vs. State of Karnataka and Others**

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**Court :** Karnataka

**Decided On :** Nov-25-2011

**Judge :**

Judges: the Honorable Mr. Justice N. Kumar, the Honorable Mr. Justice Ashok B. Hinchigeri & the Honorable Mr. Justice S.N. Satyanarayana

**Appeal No. :** WRIT PETITION NO. 42553 of 2004(S-RES)

**Appellant :** A. Thimmegowda

**Respondent :** State of Karnataka and Others

**Advocate for Pet/Ap. :** For the Petitioner: N.B. Bhat, Advocate. For the Respondent: R1 and R2 - Jagadeesh Mundaragi, GA, R3 and R4 - Manmohan P.N., R5 - S.V.Narashiman, R6 to R7 - K Sreedhar, for M/s Vagdevi Assts., R8 and R9 - P. Vyasathirtha, Advocates.

**Judgement :**

1. This Writ Petition is filed under article 226 of the constitution of India praying to quash R-2's letter dt.10/08/2004 vide Annex. F and direct R4 and R3 to prepare and publish separate Cadre-wise seniority lists in respect of each of the 3 cadres viz., Lecturer, (Senior Scale) and Lecturer (Selection Grade) and also in respect of Lecturer (Selection Grade) (Ex-Cadre).

The Learned Single Judge of this court who found inconsistency in the judgments rendered in W.P. No. 23322/2001 dated 06/10/2011, which was affirmed in writ appeal by a Division Bench in W.A No. 7537-7538/2001 dated 01/07/2002 and W.A No. 3693/2002 dated 01/04/2005, was of the view that these inconsistent orders of Division Bench of this Court require to be resolved by a Coordinate Bench or a larger Bench. Therefore, he directed that the writ petition be placed before the Hon'ble Chief Justice to obtain appropriate orders. Accordingly by an order dated 24/11/2011 the learned Chief Justice has directed that this writ petition be placed before this full Bench.

2. The Government of Karnataka passed an order vide No. ED. 88 UNI 88, Bangalore, dated 30/03/1990 sanctioning the revised 1986 UGC pay scales to the teachers in the I grade (Degree) Colleges i.e., Government Colleges and those aided by the government as per the Grant-in-aid Code in the Directorate of Collegiate Education w.e.f., 01/01/1986. Consequent upon the introduction of the revised UGC pay scales, the existing staff pattern in the aforesaid Degree colleges underwent complete change. In terms of the aforesaid Government order the college teachers will consist of 3 cadres, namely, Lecturers, Lecturer (Senior Scale) and Lecturer (Selection Grade) with the pay scales attached to such cadres. A provision was made in the Government Order for Career Advancement. Prior to the passing of the said order a single seniority list was maintained by these Colleges and posts of Readers and professors were purely on promotion basis i.e., Lecturers, Readers and professors. After the passing of aforesaid Government Order, it came to the notice of the Government that the management of these Colleges have not properly given effect to the Government Order insofar as the seniority in service is concerned. Therefore, the Commissioner of Collegiate Education issued a circular, dated 16/01/2011 setting out how in the Private Aided Institutions the seniority list is to be prepared and how the Government Order, dated 30/03/1990 has to be given effect to.

3. The said circular was challenged by one Sri A. Thimmegowda and others in W.P.No.5211/2011 c/w 23332/2001 before this court contending that in terms of the Government Order a separate seniority list is to be prepared in respect of three cadres, namely, Lecturer, Lecturer (Senior Scale) and Lecturer (Selection Grade).

Accepting this contention, the learned Single Judge by his order dated 06/10/2001 issued a direction to the Colleges to prepare and publish the seniority list in respect of each of the cadres such as Lecturer, Lecturer ( Senior Scale) and Lecturer (Selection Grade ) and thereafter, select a person for appointment to the post of Principal according to the Rules and Statutes of the Mysore University. The said order of the learned Single Judge was Challenged by Indiramma, the 3<sup>rd</sup> respondent in the said writ petition before the Division Bench of his Court as her position as principal was affected. The Division Bench of this court in W.A Nos. 7484 and 7599-7600/2001, which was disposed of on 01/07/2002, found fault with the direction issued by the learned Single Judge to the effect that only Ph.D can be made as the incharge Principal till the Seniority is finalized as the order of the learned Single Judge. Rest of the order was affirmed. In other words, the direction to prepare 3 separate list of these cadres was not disturbed . When the college in terms of the aforesaid direction prepared the seniority list 3 cadres and sent it for approval to the department, the 2<sup>nd</sup> respondent issued the impugned communication directing the college to prepare the seniority list in terms of its earlier circular dated 16/01/2001. Challenging the said communication, the present writ petition is filed.

4. The learned Single Judge at the time of hearing this writ petition was confronted with a judgment of yet another Division Bench of this Court in W.A No. 3693/2002, which was disposed of on 01/04/2005, which has taken a diametrically contrary position which reads as under:-

**N.K. Sodhi CJ (Oral)**

*“The dispute herein is only in regard to the preparation of seniority list of lecturers. The Government order dated.30/03/1990 deals with the recruitment and qualification of lecturers and also with their career advancement and with the different scales which they would be granted after putting in the requisite years of service as referred to in clause-5 thereof. This Government order does not contain any provision regarding the preparation of their seniority list. The commissioner for Collegiate Education, however, by circular dated 16/01/2001 clarified the position regarding the preparation of seniority list of teaching staff in private aided colleges.*

*It was clarified that the managements having more than one college shall prepare a common seniority list of all the colleges under their jurisdiction in respect of teaching staff. It was further provided that professors and Readers who had been promoted earlier to 01/01/1986 would be shown chronologically as Professors and Readers as per their seniority and thereafter the names of lecturers would be shown on the basis of the dates of their reporting for duty , Clause -4 of this circular reads as under:*

*“4. The placements approved on or after 01/01/1986 should be treated as incentive and not as promotion. For the purpose of determining seniority the dates of reporting to duty as Lecturer has to be considered. The seniority will not be counted for the placement selection Grade Lecturers on the basis of Ph.D/M.Phil”.*

*It is argued on behalf of the writ petitioner /respondents that clause 4 of the Circular runs counter to the Government Order dated 30/03/1990. We do not think so. There is no provision in the Government Order for the preparation of seniority list in private aided colleges whereas the Circular now clarifies the manner in which the seniority list of teaching staff in such colleges is to be prepared. There is thus no inconsistency between the two. Respondent No.2 shall now prepare the seniority list of the teaching staff in accordance with the clarification issued in the circular dated 16/01/2001.”*

That is how the matter is before us on a reference.

5. Sri.N.B.Bhat, the learned Counsel for petitioner submitted that by virtue of the Government Order when 3 separate cadres were constituted, naturally in respect of each cadre a seniority list is to be prepared. The circular issued by the 2<sup>nd</sup> respondent to the effect that only one seniority list is to be prepared taking into consideration the entry of service of these Lecturers irrespective of the fact, in what position they are functioning as on the date of the circular, would run counter to the Government Order. If that is implemented, a person who is working in a higher cadre, because of a better qualification, because he entered the service later, would be junior to the person who entered the service earlier but who does not possess the higher qualification. It creates an anomaly. When once the cadres are separated, the seniority list is to be in respect of each cadre. That is precisely

what the learned Single judge had held in the earlier proceedings, which order has been affirmed by the Division Bench of this Court and followed by the other Division Benches. Therefore, according to him,. That is the law which has been now violated by the 2<sup>nd</sup> respondent by issuing the impugned communication.

6. Per contra, Sri Jagadeesh Mundargi, the learned Government Advocate pointed out that a careful reading of the Government Order makes it abundantly clear that for the purpose of giving benefit to the UGC pay scales, which in supercession of the earlier Government Orders, 3 cadres with the pay scales noted against them is introduced. After the introduction of this Government Order a person moves from the Lecturer cadre to the Lecturer (Senior Cadre) and thereafter to Lecturer (Selection Grade). The movement is not automatic. It is based on a process of screening/ selection as set out in the Government Order and higher educational qualification is prescribed to move to the next cadre. But the said order makes no reference about the qualification of a Principal. Therefore, as is the practice earlier, the senior most person would be normally the Principal. Therefore, there should be only one seniority list and that is precisely what is clarified by way of the circular. In fact, the said stand of the Government has been approved by yet another division Bench which has categorically held that there is no inconsistency between the Government Order and the circular issued by the 2<sup>nd</sup> respondent. In that view of the matter. The instance of three independent separate seniority list is without any substance.

7. The learned Counsel Sri. K. Sridhar appearing for 6 and 7 supported the stand of the Government.

8. Sri S.V. Narashimhan, the learned Counsel appearing for the respondent No.5 also reiterated the same stand.

9. Therefore in the light of the aforesaid facts, the Government Order, the circular and the judgments of this Court rendered earlier, the point that arises for consideration is.

“Whether the circular issued by the 2<sup>nd</sup> respondent is inconsistent with the Government Order dated 30/03/1990, inasmuch as, whether it is necessary to

prepare 3 seniority lists or one common seniority list for the entire institution?"

10. The UGC scales of pay were first extended to the teachers of the Universities w.e.f., 01/04/1966. The scale of pay in the State Government were revised w.e.f., 01/01/1970 following the recommendation of the Tukol Pay commission. The benefit of the revised UGC scale of pay introduced from 01/01/1973 was extended to the teachers of the Universities w.e.f., 01/01/1973. The UGC scale is a composite scheme, as it embraces within its fold not only the University teachers but also the teaching staff of the colleges. On the representation made by the Karnataka Government College Teachers Association and the Federation of University and College Teachers Association for extending the benefit of the revised UGC scale of pay w.e.f., 01/01/1986, a committee was set up to examine all aspects on revision of pay scale of college teachers in accordance with the UGC Scheme based upon the recommendation of prof. Mahrotra Committee. The Federation of the teaching Staff gave an undertaking that the teachers of the degree colleges would permanently opt to remain outside the purview of the State pay scales. The Federation also agreed for absorption of the existing Readers including the Supernumerary Readers in the cadre of Lecturers (Senior Scale) and the existing Professors in the cadres of Lecturers (Selection Grade). The State Government held several detailed discussion with the Federation of the University and College Teachers Association in Karnataka, Bangalore, and Karnataka Government College Professors Forum, Bangalore and Karnataka Private College Professors Forum Bangalore. The State also constituted a committee for formulating the workload of college teachers consequent upon the implementation of the revised UGC pay scales to that effect. After detailed examination of the demands and views expressed by various Teachers' Organisations and taking all aspects into consideration, the Government issued the Government Order dated 30/03/1990 in supersession of the earlier Government Order dated 25/03/1989. In terms of the aforesaid Government Order the Government was pleased to sanction the revised 1986 UGC pay scales to the Teachers in the first Grade (Degree Colleges) i.e., Government Colleges and those aided by Government as per Grand-in-aid Code under the Directorate of Collegiate Education w.e.f., 01/01/1986. In the government Order the scheme of extension of the revised 1986 UGC pay scales is clearly set out.

11. Clause 3 deals with the pay scales which reads as under:

“PAY SCALES:- Consequent upon the introduction of the revised UGC pay scales, the existing staffing pattern in the aforesaid degree Colleges will undergo complete change and in future, the college teachers will consist of the following cadres with the pay scales noted against them:-

*Sl.No. Designation Revised UGC PAY SCALE* 1. Lecturer Rs.2200-75-2800-100-4000

2. Lecturer (Senior Scale) Rs.3000-100-3500-125-5000

3. Lecturer (Selection Grade) Rs.3700-125-4950-150-5700

### **LANGUAGE**

*The existing supernumerary Readers and Readers in the State Scale shall be designated as Lecturer (Senior Scale).*

*(b) The existing Professors shall be designated as Lecturer (Selection Scale).*

*(c) The existing Senior Professors shall be designated as lecturer (Selection Grade) and they shall be given the benefit of one increment for every block of five years of completed service as Senior Professor in the pay scale of Rs,3700-5700.*

*(e) The Existing practice of appoint the senior most*

*Teacher in the college as Principal will continue and no*

*Posts of Principal Grade-I mentioned in the G.O. No. ED 88 UNI 88 dated 25/03/1989 shall be created.”*

12. Clause 4 deals with Recruitment and Qualifications. It reads as under:-

RECRUITMENT AND QUALIFICATION:-

(a) Recruitment to all the teaching posts in the aforesaid colleges shall be on the basis of merit through All-India advertisement and selection, provided that lecturers who fulfill the criteria prescribed in this scheme will be eligible for promotion to the posts of Lecturer (Selection grade).

(b) The minimum qualification required for appointment to the post of Lecturers, Lecturer(Senior Scale) and Lecturer (Selection Grade) will be those prescribed by the UGC from time to time. Generally, the minimum qualification for appointment to the Post of lecturer in the scale of pay Rs. 2200-4000 shall be Master's Degree in the relevant subject with atleast 55% marks or its equivalent grade and good academic record.

(c) Only those candidates who besides, fulfilling the minimum academic qualifications prescribed for the post of Lecturer, have qualified in a comprehensive test, to be specifically conducted for the purpose will be eligible for appointment as Lecturers. The detailed scheme for conducting the test including its design, the agencies to be employed in the conduct of tests, content, administration etc., will be worked out by the U.G.C. keeping in view the requirement of the media of instruction followed by the different States/Universities/colleges, and other relevant considerations.

(d) In order to encourage research, in continuation of Post graduate studies candidates who, at the time of their recruitment as Lecturers. Possess, Ph.D or M.Phil Degree, will be sanctioned three and one advance increments respectively in the scale of Rs.2200-4000 alongwith the benefit of corresponding years of service for the purpose of promotion. The existing Lecturers without research degrees, and those similarly situate, recruited in future will be eligible for similar benefit in service for the purpose of promotionas and when they acquire research degrees, but will not be eligible for advance increments. Existing Lecturers with research degrees will also be eligible for a similar benefit.

Clause 5 deals with Career Advancement. It reads as under: -

5. CAREER ADVANCEMENT:- a) Every Lecturer will be placed in a Senior Scale of Rs. 3000-5000 if he/she as:-

*i) completed 10(ten) years of service after regular appointment with relaxation as provided in Para (4)(d) above:*

*ii) Participated in two refresher course/summer institutes, each of approximately 4 weeks duration or engaged in other appropriate continuing education programmes of comparable quality as may be specified by the U.G.C.*

*iii) Consistently satisfactory performance appraisal report.*

*Explanation: Every Lecturer who has completed 10(ten) years of service on 01/01/1986, will be placed through a process of screening/selection as indicated in para (6) (d) below, in the scale of Rs.3000-5000. The benefit of service provided in para(4) (d) will be available for the initial placement also.*

*(b) Every Lecturer in the Senior Scale will be eligible for promotion to the post of Lecturer (Selection Grade) in the scale of pay Rs.3700-5700 if he /she has:*

*i) Completed 8 (eight) years of service in the senior Scale, provided that the requirement of 8 (eight) years will be relaxed if the total service of the/Lecturer is not less than 18(eighteen) years.*

*ii) Obtained a Ph.D degree , or an equivalent published work:*

*iii) made some mark in the areas of scholarship and research as evidenced by self-assessment reports of referees, quality of publications, contribution to educational renovation, design of new courses and curricula etc.,*

*iv) Participated in two refresher courses/summer institutes each of approximately 4 weeks duration or engaged in other appropriated continuing education programmes of comparable quality as may be specified by the U.G.C after placement in the senior scale ; and*

*v) Consistently good performance appraisal reports.*

*c) Promotion to the post of Lecturer (selection grade)will be through a process of Section by a Section Committee to be set up under the status/ ordinances of the University concerned or other similar committees set up by the appointing*

*authorities in accordance with the guidelines to be laid down by the UGC. Post of Lecturers (Selection Grade) will be created for this purpose by upgrading a corresponding number of posts of Lecturer in the universities and Colleges.*

*d) Those Lecturers in the Senior Scale who do not have Ph.D degree or equivalent published work and who do not meet the scholarship and research standards of Lecturer (Selection Grade) but fulfill the order criteria mentioned in para(5) (b) and have good record in teaching and /or participation in extension activities, will be placed in the grade of Rs.3700-5700 subject to the recommendations of the committee mentioned in para(5) (c) above. They will be designated as Lecturer (Selection Grade), Posts in the selection Grade will be created for this purpose by upgrading the posts held by them.”*

13. Prior to the issue of this Government Order in these Colleges the posts held by the teaching staff was described as Lecturers, Readers, Supernumerary Readers and Professors. All the posts above the post of Lecturer were promotional posts. For the purpose of granting that promotion the entry into service in the lowest cadre was the only criterion. Therefore, in the normal course, the senior most person in the teaching staff would be the Principal of the College. After the introduction of the UGC scale of pay and in pursuance of the Government Order dated 30/3/1990, the existing staffing pattern in the aforesaid Degree Colleges underwent complete change. From the date of the Government Order, the staffing pattern in these colleges consists of the cadres as referred to above with the pay scales noted against them. As is evident from clause 5 - Career Advancement, to move from the cadre of Lecturer to Lecturer (Senior Scale) the qualification prescribed under clause 5(a) had to be fulfilled. It is through a process of screening/selection as indicated in paragraph, 6(b), which reads under:-

*“6(b) Regular and systematic appraisal of performance of teachers is to be an essential element in the management of education and this has been taken into account in the design for the career development of teachers. The UGC has been requested to formulate the guidelines for the evaluation of performance of teachers., taking into account the statement contained in the National Policy on Education 1986. Till it becomes operational the existing screening,*

*mechanism/selection procedures or those prescribed in a provisional basis by the University /State Government concerned will apply to the placement promotion referred to in para(5) (a) to (d)."*

14. Similarly, to reach the Lecturer(election Grade) one has to satisfy the requirement prescribed under clause 5(b). Because of the confusion created with reference to the words 'promotion', 'cadre' used in the said Government Order, a corrigendum was issued on 08/01/2002 substituting the words 'placement' for the word 'Promotion', 'designation' for word 'cadre'. Therefore, this concept of promotion was given a go-bye, it is a case of placement in the higher post subject to the candidate fulfilling the qualification prescribed under the aforesaid Government Order. In other words, in place of promotional post., it became a selection post. But at the same time, on the day of Government Order came into force by virtue of seniority, persons had reached the higher posts. Therefore, the Government Order made it very clear that the existing supernumerary Readers and Readers in the said scale shall be designated as lecturers (Senior Scale) and the existing professor shall be designated as lecturer (Selection Grade). The Existing Senior Professor shall be designated as Lecturers (Selection Grade) and they shall be given benefit of one increment for every block period of 5 years of completed service as Senior professors in the pay scale of Rs,3,700-5,700. It was also clarified in clause 5(d) that these Lecturers in the Senior Scale who do not have Ph.D...degree or equivalent published work and who do not meet the scholarship and research standard of Lecturer (Selection Grade) but fulfill the other criterion mentioned in clause 5(b) and have record in teaching and/or participation in extension activities would be placed in the grade of Rs.3700-5700 subject to the recommendations of the committee mentioned in clause 5(c) of the Government Order. They will be designated as Lecturer(Selection Grade). The post in the Selection Grade will be created for this purpose by upgrading the post held by them. Those persons who have moved into the higher post without qualification, their status and pay, was protected. Probably this is a onetime measure as the Government Order was made retrospective in operation and just to soften the rigours of transition. But still the private education institutions prepared seniority list contrary to the Government Order according to their understating, which crated problem. Therefore, it became necessary for 2<sup>nd</sup>

respondent to issue the circular, dated 16/01/2001 clearly setting out how a seniority list is to be prepared in the light of Government Order. It reads as under:-  
( in Kannada language ---underlining by us)

The said circular makes it clear that the institutions, which have only one college shall prepare a seniority list of teaching and non-teaching staff purely on basis of seniority. Those institutions which have more than one college shall prepare one seniority list of all the teachers in their Colleges, again one for teaching and another for non-teaching staff. Prior to 01/01/1986, if a Lecturer is already promoted as a professor and a Reader and if they are in service, their seniority is to be reckoned from the date of their entry into service protecting their position as professor and Reader. After 01/01/1986 it has to be treated as an incentive and not promotion. For the purpose of seniority of these Lecturers, date of entry into service is only the criterion. If by virtue of acquisition of M.Phil and Ph.D., if they are already selected as selection Grade lecturer, in the seniority list they will not get benefit by way seniority over persons who do not possess the qualification. Those persons who have come to the institution by transfer prior to 01/01/1986, insofar as their seniority is concerned, have to be treated as junior most among the Professors and Readers in that college and placed above the Lecturers. Those Lecturers who have come on transfer, would be the junior most in the said Institution and their date of entry into service would be the date on which they on transfer. It was also made clear, in considering the appointment of Principal Grade-I, which is on the basis of seniority is to be computed from the date of entry into service.

15. This circular was found fault with by the learned Single judge in W.P.No. 5211/2011 on the ground that the circular runs counter to the Government Order. Therefore, he issued a direction to prepare 3 seniority lists pertaining to 3 cadres, which order has been affirmed by the Division bench. However, another Division Bench held that there is no inconsistency in the Government Order and the circular.

16. Now a careful reading of the Government Order and the circular makes it clear that after the extension of the benefit of the UGC pay scales to these Lecturers,

the concept of promotional post on number of years of service has been given a go-bye. However , for the purpose of appointing a Principal, still the seniority counts. It is in that context the circular says all the institutions should prepare a seniority list of all the teaching staff on the basis of their entry into service. The UGC pay scales and the Government Order is only in respect of Career Advancement. It does not deal with appointment of a Principal. For the purpose of Career Advancement, the clause prescribed in the Government Order, which includes a higher educational qualification, is a condition precedent. Therefore, notwithstanding the fact that a person is a senior most, unless he possesses the requisite qualification prescribed therein, he will not move into the next designation. However sufficient provision is made to protect the interest of persons who have already moved into the higher designation without the requisite qualification . In that context it is clearly set out in the circular , how they have to be treated, how their monetary benefits and the status are to be protected. But insofar as seniority is concerned, it has to be on the basis of requisite qualification. Therefore, this concept of preparation of 3 seniority list cannot be gathered from the said Government Order. On the contrary, the Government Order also makes it clear that there is only one cadre, but 3 designations. So when the cadre is one, the seniority list also has to be one. One cannot have a seniority list for each designation. The intension is made clear by the corrigendum. Therefore there is no inconsistency between the Circular and the Government Order. On the contrary, the circular clarifies and gives effect to the Government Order. In the judgments referred to above where this Court proceeded on the assumption that there is inconsistency and that consequently 3 separate seniority lists are to be prepared for each cadre, would run counter to the principle underlying the Government order. Rightly the other Division Bench was justified in holding that there is no inconsistency between the Government Order as well as the circular. Therefore, the correct legal position would be as under:-

The Government Order read with corrigendum , dated 08/01/2002 makes it clear that there will be only one cadre among degree college teachers. The said cadre consists of (a) Lecturer (b) Lecturer (Senior Scale) (c) lecturer (Selection Grade). For the purpose of determining the seniority of these lecturers the date of entry into service as lecturer is only the criteria. To move from the post of lecturers to

lecturers ( Senior Scale), the qualification prescribed under Clause 5(a) had to be fulfilled. Therefore, the movement from lower post to higher post is not automatic based on the seniority. The concept of promotion is given a go-by. It is no more a promotion post. It has become a selection post. It is a case of placement in higher post subject to the candidate fulfilling the qualifications prescribed under the Government Order. However in so far as the appointment of the Principal of the College is concerned, senior most teacher in the college would be appointed as principal based on the date of entry into service as Lecturer. Therefore, only one seniority list is to be prepared , based on the initial entry into service as lecturer. Those Lecturer who possess the higher qualification as stipulated in the rules or those who acquire those higher qualification are placed in the post of Lecturer(Seniority Scale) and Lecturer (Selection Grade) respectively depending on the qualification., by mentioning the said designation, in the same common/ one seniority list is maintained by the institution. By virtue of such higher qualification they would be entitled to higher monetary benefits as prescribed. But it does not alter their place in the seniority list.

17. In the instance case, the petitioner has done M.sc., in Chemistry with the I class (6<sup>th</sup> Rank) and Ph.D., I Chemistry in the year 1984. He was appointed as al lecturer in chemistry in the 3<sup>rd</sup> respondent college and it is a I Grade college receiving grant-in-aid from the Government. He was aggrieved by the circular , dated 16/01/2001, wherein the college was directed to prepare a single and common seniority list of all the Lecturers irrespective of designations to which they belong to and that they seniority should be reckoned form the date of initial appointment as Lecturer in the lower designation. That is how he filed the writ petition for direction to prepare 3 separate seniority list in which he was successful both before the learned Single Judge as well as before the Division Bench. However, inspite of said orders, 3 separate seniority list were not prepared. He has preferred this write petition challenging the communication sent to the College by the 2<sup>nd</sup> respondent by not approving the 3 separate seniority lists prepared which was sent him for approval. By virtue of the Ph.D degree which he possessed though, he is entitled to be placed in the higher post inpursance of the Government Order. The intension is made clear by the Government by removing the word 'cadre' and substituting the word 'designation'. Therefore , in pursuance

of the Government Order in each college there is only one cadre, but persons depending upon their qualification and experience are designated and placed in the higher posts.

18. Accordingly, we hereby over rule the judgment of the Division Bench in W.A.Nos.7484 and 7599-7600 of 2007 rendered on 01/07/2002, affirming the order of the learned single Judge rendered in W.P. No. 5211 of 2011 c/w 23332 of 2001 directing the Government to prepare a separate seniority list in respect of three cadres, namely Lecturer, Lecturer(Senior Scale) and Lecturer ( Selection Grade). The judgment of the division bench rendered in W.A. 3693 of 2002 decided on 01/04/2005, lays down the correct law. Therefore we hold as under;-

*The Government Order read with corrigendum dated 08/01/2002 makes it clear that there will be only one cadre among degree college teachers. The said cadre consists of (a) Lecturer (b) Lecturer (Senior Scale) (c) Lecturer (Selection Grade). For the purpose of determining the seniority of these lecturers the date of entry into service as lecturer is only the criteria. To move from the post of lecturers to lecturer (Senior Scale), the qualification prescribed under Clause 5(a) had to be fulfilled. Therefore, the movement from lower post to higher post is not automatic based on the seniority. The concept of promotion is given a go-by. It is no more a promotional post. It has become a selection post. It is a case of placement in higher post subject to the candidate fulfilling the qualifications prescribed under the Government order. However, in so far as the appointment of the Principal of the College is concerned, senior most teacher in the college would be appointed as principal based on the date of entry into service as lecturer. Therefore, there will be only one seniority list is to be prepared, based on the initial entry into service as lecturer. Those lecturers who possess the higher qualification as stipulated in the rules or those who acquire those higher qualification are placed in the post of Lecturer (Senior Scale) and lecturer (Selection Grade) respectively depending on the qualification by mentioning the said designation, in the same common/ one seniority list maintained by the institution. By virtue of such higher qualification they would be entitled to higher monetary benefits as prescribed. But it does not alter their place in the seniority list.'*

19. Therefore, we do not see any merit in this writ petition. Accordingly, the writ petition is dismissed.

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