

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

RP.No. 304 of 2015 (B) IN WP(C).19017/2013

WP(C) 19017/2013 of HIGH COURT OF KERALA

REVIEW PETITIONER(S)/PETITIONERS:

1. SMT. ANU SOUMYA MATHEW
H.S.S.T.(JUNIOR) PHYSICS
B.H. HIGHER SECONDARY SCHOOL MAVELIKKARA.
RESIDING AT KAKKADAMPALLIL
KALLUMALA.P.O., MAVELIKKARA-690110.
2. SMT. SHALINI SARAMMA VARUGHESE
H.S.S.T TEACHER(CHEMISTRY)
B.H. HIGHER SECONDARY SCHOOL MAVELIKKARA.
RESIDING AT KODITHOPPIL, KOTTANAD.P.O.
PATHANAMTHITTA-689615
3. SMT. SHALOM MARIAM ZACHARIAH
H.S.S. TEACHER (ELECTRONICS)
B.H. HIGHER SECONDARY SCHOOL
RESIDING AT THOPPIL HOUSE, CHENNITHALA.P.O.
MAVELIKKARA-690105.

BY ADVS.SRI.P.SANKARANKUTTY NAIR
SRI.K.SANDESH RAJA

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. PRINCIPAL SECRETARY,

FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.

3. THE DIRECTOR

DIRECTORATGE OF HIGHER SECONDARY EDUCATION
HOUSING BOARD BUILDING, SANTHI NAGAR
THIRUVANANTHAPURAM-695001.

4. REGIONAL DEPUTY DIRECTOR OF

HIGHER SECONDARY EDUCATION
DIRECTORATE OF HIGHER SECONDARY EDUCATION
CORPORATION BUILDING, 4TH FLOOR, PALAYAM
THIRUVANANTHAPURAM-695146.

5. BISHOP HODGES

HIGHER SECONDARY SCHOOL, MAVELIKKARA
REPRESENTED BY CORPORATE MANAGER, C.M.S. SCHOOL
KOTTAYAM-686001

R1 TO R4 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL.
R5 BY SRI.V.A.MUHAMMED

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 27-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.B.SURESH KUMAR, J.

Review Petition No.304 of 2015

in

W.P.(C) No.19017 of 2013

Dated 27th March, 2015.

O R D E R

The petitioners in the writ petition are the review petitioners. They were appointed as Higher Secondary School Teachers (HSST) in Bishop Hodges Higher Secondary School, Mavelikkara. An additional Higher Secondary batch of Science group was sanctioned to the school on 3.8.2011. The petitioners were appointed in anticipation of sanctioning of the required number of additional teaching posts consequent on the sanctioning of the said additional batch. Among them, the first petitioner was appointed as HSST (Junior) in Physics, the second petitioner was appointed as HSST (Junior) in Chemistry and the third petitioner was appointed as HSST (Junior) in Electronics. Though they were appointed in the anticipated vacancies, the required number of additional posts were not sanctioned and consequently, their appointments were not approved. On 15.7.2013, as per Ext.P8 order, the Government

sanctioned one additional post of HSST (Junior) in Electronics in the school from the academic year 2011-2012. Later, on 3.7.2014, as per Ext.P9 order, the Government sanctioned an additional post of HSST (Junior) in Physics and an additional post of HSST (Junior) in Chemistry from the academic year 2012-13 with prospective effect.

2. According to the petitioners, as per the provisions of the Kerala Education Rules, it is for the Director of Higher Secondary Education to sanction the required number of additional posts in the Higher Secondary Schools taking into account the requirements in that school and the Director of Higher Secondary Education has a duty to sanction the required number of additional posts in the school. This Court in **State of Kerala v. Saji** (2009(3) KLT 766) held that the Government has no role in the matter of sanctioning of posts in the Higher Secondary Schools. In the light of the said decision, the writ petition was disposed of with the following directions :

- “1) The third respondent shall consider the entitlement of the petitioners to get the additional posts sanctioned in Bishop

Hodges Higher Secondary School, Mavelikkara with retrospective effect from the academic year 2011-2012 and get their appointments approved with effect from the respective dates of appointment, within three months from the date of receipt of a copy of this judgment.

- 2) In the meanwhile, the third respondent shall consider the claim of the petitioners for approval of their appointments as against the additional posts sanctioned as per Exts.P8 and P9 orders and take steps for disbursement of their salary, within a period of three months from today.”

3. Earlier during the pendency of the writ petition, the Government issued an order on 6.11.2014, by which it was directed that the appointments of teachers made in anticipation of sanctioning of additional posts pursuant to sanctioning of additional Higher Secondary batches shall be approved from the expiry of 30 days from the date of creation of additional posts. The said order was produced in the writ petition as Ext.P10. It was, however, clarified in Ext.P10 that the benefit of the said order will be available only to the additional posts sanctioned by the Government as per the order dated 15.7.2013. The Review Petition is filed contending that the petitioners in the writ petition are similarly placed to those

teachers referred to in Ext.P10 order and there is no reason why their appointments shall not be approved at least from the date of Exts.P8 and P9 orders as done in the case of the teachers referred to in Ext.P10.

4. I find merit in the argument of the review petitioners. The impugned judgment was rendered without adverting to Ext.P10 order issued by the Government which is relevant in the context of the disputes raised in the writ petition. The judgment in the circumstances is liable to be reviewed to extend the petitioners similar treatment as extended to the teachers referred to in Ext.P10.

5. In the result, the Review Petition is allowed and the direction No.2 issued in the writ petition is modified as follows :

In the meanwhile, the third respondent shall approve the appointments of the petitioners as against the additional posts sanctioned as per Exts.P8 and P9 orders as done in the case of the teachers covered by Ext.P10 order and take steps for disbursement of

salary, within a period of one month from today.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)