

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WA.No. 517 of 2012 () IN WP(C).12313/2004

AGAINST THE JUDGMENT IN WP(C) 12313/2004 of HIGH COURT OF KERALA
DATED 17.10.2011

APPELLANT(S)/RESPONDENTS 1 - 4:

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1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.
 2. THE DIRECTOR OF PUBLIC INSTRUCTION
JAGATHY, THIRUVANANTHAPURAM.
 3. THE ACCOUNTANT GENERAL (A&E), KERALA,
THIRUVANANTHAPURAM.
 4. THE ASSISTANT EDUCATIONAL OFFICER, PULLAD.

BY SR GOVERNMENT PLEADER SMT. ROSE MICHAEL

RESPONDENT(S)/PETITIONER:

K.M.MATHEW
HEADMASTER (RETD.) GOVERNMENT U.P.B.SCHOOL, KUMBANAD
(RESIDING AT MUNDAKKEMANNIL, PURAMATTOM P.O.
TIRUVALLA 689 543)

R BY SRI.V.A.MUHAMMED

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 25-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.No.517 of 2012

Dated this the 25th day of May, 2015

JUDGMENT

Antony Dominic, J.

1. Respondents in W.P(C).12313/04 are the appellants. The respondent herein, who retired from service on 31.5.2002 as Headmaster, Govt.U.P.B. School, Kumbanad, filed the writ petition challenging Ext.P2 audit objection and Ext.P9 Government Order and for a direction to the respondents to accord sanction for re-option as sought for in Ext.P4 in terms of Ext.P5 Government Order. By the judgment under appeal, learned single Judge allowed the writ petition. It is this judgment which is under challenge before us.
2. We heard learned Government Pleader appearing for the appellants and learned counsel appearing for the respondent.
3. Admittedly, this is a case in which, on the basis of Ext.P2 audit objection, there was reduction in the revised pay fixed for the petitioner consequent on the shifting of fixation from 1.7.1988 to 16.9.1985.

To such a case, paragraphs 2 and 3 of Ext.P5 Government Order dated 30.1.1980 permitting re-option is fully applicable. That apart, in OP.12457/01 and OP.14736/00 filed in similar circumstances where re-options exercised were rejected by the Government, this Court had interfered with the rejection and directed that re-options be allowed as per Exts.P6 and P7 judgments respectively. In such a situation, we do not find any infirmity in the order of the learned single Judge interfering with Ext.P9 and allowing the writ petition.

Appeal fails. It is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

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PS to Judge