

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WA.No. 536 of 2012 () IN WP(C).38076/2010

AGAINST THE ORDER/JUDGMENT IN WP(C) 38076/2010 of HIGH COURT OF KERALA
DATED 23-12-2011

APPELLANT(S)/PETITIONER:

JAMEELA.P.M.,
U.P.S.A, H.U.P.S, POYLINGAPARAMBU, KODUNGALLUR
TRICHUR DISTRICT.

BY ADV. SRI.M.R.ANISON

RESPONDENT(S)/RESPONDENTS:

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1. STATE OF KERALA
REP. BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
 2. THE DISTRICT EDUCATIONAL OFFICER
IRINJALAKUDA - 680 121.
 3. THE ASSISTANT EDUCATIONAL OFFICER,
KODUNGALLUR - 680 664.
 4. THE MANAGER
H.U.P.S., POYLIANGAPARAMBU, KODUNGALLUR
TRICHUR DISTRICT, PIN 680 666.

R4 BY ADV. SRI.V.E.ABDUL GAFOOR
R4 BY ADV. SRI.A.MOHAMMED SAVAD
R4 BY ADV. SRI.C.Y.VINOD KUMAR
R1 TO R3 BY SR GOVERNMENT PLEADER SRI.P.FAZIL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WA.536/12

APPELLANTS' EXHIBITS:

ANNEXURE A1: TRUE COPY OF THE JUDGMENT DATED 27.8.2009 IN WPC.5503/09.

/True copy/

PS to Judge

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.No.536 of 2012

Dated this the 5th day of August, 2015

JUDGMENT

Antony Dominic, J.

1. This appeal is filed by the petitioner in W.P(C). 38076/10. Facts show that by Ext.P1 order dated 16.2.2004, the appellant was appointed as UPSA in the school of which the 4th respondent is the Manager. Approval of the appointment was rejected by Ext.P2 order, stating that the promotion effected by the Manager was not approved and the appointment of the appellant being to a promotion vacancy, there was no established vacancy at that time. Yet another reason stated was that the senior teachers in the school were ignored when promotion was effected. The Manager pursued the matter which resulted in Exts.P3 and P4, whereby, appointment of the appellant was ordered to be approved on daily wages for the period from 19.12.2008 to 31.3.2009 and thereafter on regular basis. The writ petition was filed challenging the above orders and seeking approval of appointment with effect from 16.2.2004, when the appellant commenced service.

2.Learned single Judge disposed of the writ petition, directing that the appointment be approved on regular basis with effect from 1.6.2005. This was on the basis that the promotion of Smt.Soofy as Headmistress of the school with effect from 21.12.2003 was not approved and that while so, she retired from service. It is also stated that the subsequent appointment of Smt.Santhakumari was also not approved and that the appointment of Smt.Subaida, who was appointed thereafter, was approved only with effect from 1.4.2005. This shows that the conclusion of the learned single Judge was that a vacancy for appointment of the appellant arose only on the commencement of the academic year on 1.6.2005 and it was therefore that the learned Judge ordered the appointment to be approved with effect from 1.6.2005.

3.Although, at the hearing, learned counsel for the appellant relied on Annexure A judgment rendered in W.P(C).5503/09, where findings have been entered which would have sustained the appointment of Smt.Soofy and Smt.Santhakumari. Still fact remains that those appointments went unapproved and the only

appointment that was approved is that of Smt.Subaida and that too, only with effect from 1.4.2005. If that be so, when established vacancy for appointment would have arisen only on 1.6.2005, the finding of the learned single Judge cannot be said to suffer from any illegality for interference.

Appeal fails and is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

k kb.