

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WA.No. 72 of 2013 () IN WP(C).28054/2008

AGAINST THE ORDER/JUDGMENT IN WP(C) 28054/2008 of HIGH COURT
OF KERALA DATED 05-03-2012

APPELLANTS/RESPONDENTS 1 TO 3 AND 5 TO 7 IN THE WPC:

1. STATE OF KERALA
REP. BY THE SECRETARY, GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM.
2. DEPUTY DIRECTOR OF EDUCATION
KOTTAYAM.
3. THE ASSISTANT EDUCATIONAL OFFICER
RAMAPURAM.
4. DISTRICT EDUCATIONAL OFFICER
PALAI.
5. DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM.
6. ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SRI. P. FAZIL

RESPONDENTS/PETITIONER AND 4TH RESPONDENTS IN THE WPC:

1. N.UNNIKRISHNAN
NEDUMPA ILLAM, KAKKOOR P.O.
PIN - 686 662

WA.No. 72 of 2013

2. THE MANAGER
S.K.V.U.P., KURUNJI.

**Addl 3. RADHIKA DEVI, AGED 43 YEARS,
WIFE OF LATE N. UNNIKRISHNAN,
RESIDING AT NEDUMPAL ILLOM,
KAKKOOR. P.O., KOOHATTUKULAM,
MUVATTUPUZHA TALUK,
ERNAKULAM.

ADDL.R3 IS IMPEADED BY ORDER DATED 27.6.2014 IN I.A.
NO.571/14.

R1 & ADDLR3 BY ADV. SRI.N.ANILKUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

APPELLANTS' ANNEXURES:

ANNEXURE I : TRUE COPY OF G.O.(MS) NO.62/73/G.EDN. DATED 02.05.1973.

ANNEXURE II : TRUE COPY OF PROCEEDINGS OF ASSISTANT EDUCATIONAL OFFICER.

ANNEXURE III : TRUE COPY OF APPOINTMENT ORDER DATED 30.04.2012 OF MANAGER AND THE ORDER OF APPROVAL OF APPOINTMENT OF III APPELLANT DATED 02.05.2012.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.72 of 2013

Dated this the 29th of May, 2015

JUDGMENT

Antony Dominic,J.

The first respondent filed Writ Petition No.28054 of 2008 challenging Ext.P14 order issued by the 6th appellant rejecting Ext.P13 request made by him to convert the part time post of Sanskrit teacher into a full time post, extending the benefit of Exts.P1 and P2 Government Orders. By the judgment under appeal, the learned Single Judge set aside Ext.P14 and allowed the writ petition. It is this judgment which is under challenge.

2. We heard the learned Government Pleader appearing for the appellants and considered the submissions made.

3. The learned Government Pleader referred us to Rule 6B of Chapter XXIII KER and contended that Exts.P1 and P2 could not have been pressed into service.

4. Having considered the submissions made, we find that on an earlier occasion when the claim of the first respondent for conversion of his post as a full time was turned down, he

challenged that order in Writ Petition No.18926/2005. That writ petition was disposed of by Ext.P12 judgment. In that judgment, the contentions of the Government that the school being an uneconomic one, the post cannot be converted and that the benefit of Exts.P1 and P2 cannot be extended to the first respondent were rejected by this Court. The further contention relying on Circular dated 18.06.1973 was also rejected. It was thereafter that the matter was ordered to be re-considered resulting in Ext.P14. Admittedly Ext.P12 judgment in Writ Petition No.18926/2005 has become final. If that be so, the view taken in Ext.P14 order passed by the 6th appellant is virtually contradictory to the findings of this Court and that order, therefore could not have been sustained. This precisely is the conclusion of the learned Single Judge.

5. We also find from the document produced in this appeal that by Annexure - II order dated 02.05.2012 issued by the 3rd appellant, the judgment has been complied with and the post held by the first respondent has been converted into full time post.

6. In the said circumstances, we are not satisfied that the appellants have not made out any case to interfere with the impugned judgment.

The appeal fails and it is accordingly dismissed.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

smv