

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WA.No. 769 of 2013 () IN WP(C).36153/2010

**AGAINST THE JUDGMENT IN WP(C) 36153/2010 of HIGH COURT OF KERALA DATED
19-06-2012**

APPELLANT(S)/RESPONDENTS 1 TO 3:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM PIN 695 001.**
- 2. THE ASSISTANT EDUCATIONAL OFFICER,
CHERPU, THRISSUR DISTRICT PIN- 680 561**
- 3. DISTRICT EDUCATIONAL OFFICER,
AYYANTHOLE, THRISSUR DISTRICT PIN- 680 003**

BY SR. GOVERNMENT PLEADER, SMT. ROSE MICHAEL

RESPONDENT(S)/PETITIONER & RESPONDENTS 4 & 5:

- 1. REMA .K, AGED 39 YEARS,
KARIATE HOUSE, VATTANATHARA P.O, THRIOSSUR DISTRICT,
LOWER PRIMARY SCHOOL ASSISTANT, ST ANTONY'S L.P SCHOOL,
KAVALLUR, MUTTYTHADI, THRISSUR- 680 317.**
- 2. ST ANTONY'S L.P SCHOOL,KAVALLUR,
MUTTYTHADI,THRISSUR 680317**
- 3. SMT.BEENA JOSEPH,
W/O.C.R JOY, LOWER PRIMARY SCHOOL ASSISTANT,
ST ANTONY'S L.P SCHOOL, KAVALLUR, MUTTITHADI.**

**R1 BY ADVS. SRI.C.D.DILEEP
SRI.P.M.MANOJ**

R3 BY ADV. SRI.SINU.G.NATH

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 01-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

P.T.O.

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

W.A. No.769 of 2013

Dated this the 1st day of June, 2015

JUDGMENT

Antony Dominic, J.

Respondents Nos.1 to 3 in W.P.(C) No.36153 of 2010 are the appellants. The said writ petition was filed by the 1st Respondent herein, challenging Exts.P7 and P8 and for consequential reliefs. By the judgment under appeal, the learned Single Judge allowed the writ petition. It is this judgment which is challenged before us.

2. We heard the learned Government Pleader appearing for the appellants and the learned counsel appearing for the 1st Respondent.

3. The limited question that arises for consideration is whether the provisions of Ext.P2, G.O.(P) No.171/2009/G. Edn. dated 22.08.2009, extending the benefit of 1:40 teacher student ratio would apply to a retrenched teacher who is re-deployed. The judgment under appeal shows that after tracing all relevant Government Orders and provisions of the K.E.R.,

the learned Single Judge has held that the Government Order was issued for the limited purpose of accommodating teachers who were rendered surplus and that therefore the said benefit is not available to a teacher re-deployed on protection.

4. In so far as this case is concerned, while the 1st respondent was working as L.P.S.A, staff fixation order was issued for the year 2009-2010, fixing the teacher student ratio of 1:45, and that resulted in abolition of one post. This resulted in retrenchment of the 1st respondent and deployment of the 3rd Respondent, on protection. Following the issuance of Ext.P2, revised staff fixation order was issued applying the ratio of 1:40. As a consequence of that, by Ext.P3, the Assistant Educational Officer ordered that the 1st respondent be retained in the school. This was objected by the 3rd respondent herein, who wanted to be re-instated in the parent school itself. This was rejected by Ext.P5 order. However, her revision was allowed by the Government as per Ext.P7. Ext.P8 is the consequential order. It was in this background, challenging Exts.P7 and P8, the 1st respondent herein filed the writ petition, which came to be allowed.

5. As we have already stated, the limited question that arises for consideration is regarding the relevance of Ext.P2 Government Order to a case of the teacher who is on re-deployment. As rightly found by the learned Single Judge, Ext.P2 was applicable only to schools affected by the specific problem of division fall, for the limited purpose of accommodating the teachers who were rendered surplus. This necessarily means that this Government Order had application only for the cases of teachers who were rendered surplus and as a result, retrenched from service. Such a Government Order, with the provisions as above, cannot apply to the case of 3rd respondent as held by the learned Single Judge.

We do not find any error in the view taken by the learned Single Judge. The appeal fails, and it is accordingly dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI .P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-