IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).NO. 483 OF 2012 (I)

PETITIONER:

O.RIJI WILSON, AGED 29 YEARS,
WIFE OF K.J.BRIGHT, LOWER PRIMARY SCHOOL ASSISTANT,
ST.THOMAS UPPER PRIMARY SCHOOL, PARANNUR,
KUNNAMKULAM SUB DISTRICT.

BY ADVS.SRI.K.E.HAMZA
SRI.V.RAJASEKHARAN NAIR

RESPONDENT(S):

1. **THE STATE OF KERALA**
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM 695 001.

2. **THE DIRECTOR OF PUBLIC INSTRUCTIONS,**
   JAGATHY, THIRUVANANTHAPURAM 695 014.

3. **THE DISTRICT EDUCATIONAL OFFICER,**
   CHAVAKKAD, THRISSUR DISTRICT 680 506.

4. **THE ASSISTANT EDUCATIONAL OFFICER,**
   KUNNAMKULAM, THRISSUR DISTRICT 680 503.

5. **THE MANAGER,**
   ST.THOMAS UPPER PRIMARY SCHOOL, PARANNUR, CHOONDAL,
   KUNNAMKULAM SUB DISTRICT 680 502.

BY GOVERNMENT PLEADER, SRI. T.J. MICHAIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 483 OF 2012 (I)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 12/6/2006.

EXHIBIT P2 TRUE COPY OF THE ORDER NO. B-2167/2006/L.DIS. OF THE ASSISTANT EDUCATIONAL OFFICER DATED 16/5/2007

EXHIBIT P3 TRUE COPY OF THE ORDER NO.B1-4675/07/K.DIS. OF THE DISTRICT EDUCATIONAL OFFICER DATED 13/11/2008.

EXHIBIT P4 TRUE COPY OF THE APPEAL FILED BY THE MANAGER BEFORE THE 2ND RESPONDENT DATED 3/1/2009

EXHIBIT P5 TRUE COPY OF THE GO(RT) NO.485/08/G.EDN.OF THE GOVERNMENT DATED 25/1/2008

EXHIBIT P6 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN OP NO. 4568/1972 DATED 28/6/1973.

EXHIBIT P7 TRUE COPY OF THE APPEAL PETITION FILED BEFORE THE GOVERNMENT DATED 15/12/2011.

EXHIBIT P8 TRUE COPY OF THE G.O.(RT) NO.1392/2012/G.EDN. OF THE GOVERNMENT.

EXHIBIT P9 TRUE COPY OF THE JUDGMENT IN W.A. NO. 1674 OF 2008 DATED 21.3.2014.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.483 of 2012

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Dated this the 17th day of November, 2015

J U D G M E N T

The petitioner, who is a Lower Primary School Assistant (LPSA), has filed this Writ Petition, challenging her exclusion in the “Teachers' Package” introduced vide G.O. (P) No. 199/2011/G.Edn. Dated 01.10.2011. The petitioner prayed for quashing Ext.P8 order passed in revision, by the 1st respondent, affirming the exclusion on the reason that the petitioner is not working against a sanctioned post.

2. The petitioner has been working as a Lower Primary School Assistant (LPSA) in St. Thomas Upper Primary School, Parannur with effect from 12.06.2006 against an additional vacancy. But, the appointment was not approved for two reasons, i.e., there was a ban of appointment against additional division vacancies as per G.O.(P)No. 317/05/G.Edn., dated 17.08.2005 and there was no classroom facility for providing additional

divisions in the school, as the accommodation available in the school was to provide only 9 classrooms. The rejection of the additional division was challenged by the Manager by filing W.P.(C) No.20369 of 2006, before this Court and this Court allowed the Writ Petition in favour of the Manager. But, the Government filed Writ Appeal No.1674 of 2008, against the judgment passed by the learned Single Judge of this Court and this Court granted interim stay and that stay was continuing at the time when Ext.P8 order was passed by the 1st respondent. So the sanctioning of additional division was not considered, while passing Ext.P8 order.

3. But, now the petitioner produced copy of the judgment passed by the Division Bench of this Court in W.A. No.1674 of 2008 and it is seen that the Division Bench dismissed the appeal filed by the 1st respondent and affirmed the findings of the learned Single Judge which were made in favour of the claim of the Manager,

by Ext.P9 judgment. Therefore, I find that Ext.P8 order requires reconsideration in view of Ext.P9 judgment, passed in the Writ Appeal affirming the judgment in Writ Petition No.20369 of 2006. In the above view, Ext.P8 order passed by the 1st respondent will stand quashed and the matter is remitted to the 1st respondent for fresh consideration in the light of Ext.P9 judgment. The 1st respondent shall pass orders afresh within a period of three months from the date of production of a copy of this judgment along with a copy of the judgment passed in W.A. No.1674 of 2008.

This Writ Petition is disposed of accordingly.

Sd/-

K. HARILAL,

JUDGE

DST

//True copy//

P.A. To Judge