

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

W.A.No. 91 of 2015 IN WP(C).809/2013

AGAINST THE JUDGMENT IN WP(C) 809/2013 of HIGH COURT OF KERALA DATED 11-03-2014

APPELLANTS:

1. THE ASSISTANT EDUCATIONAL OFFICER
VENGARA, MALAPPURAM DISTRICT. 676 504.
2. THE DEPUTY DIRECTOR OF EDUCATION
MALAPPURAM 676 505.
3. THE DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM 695 001.
4. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001.

BY SR. GOVERNMENT PLEADER SRI.M.A.FAYAZ

RESPONDENT:

A.K.MOHAMMED
HEAD MASTER, AIDED MAPPILA LOWER PRIMARY SCHOOL
IRINGALLUR EAST, MALAPPURAM 676 304.

R1 BY ADV. DR.GEORGE ABRAHAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.91 of 2015

Dated this the 13th day of July, 2015

JUDGMENT

Antony Dominic, J.

Respondents in W.P.9C)809/13 are the appellants in this writ appeal. The issue raised in this appeal pertains to the question whether the period of service rendered by the respondent in a Government school is also to be counted for reckoning the 15 years of continuous service, for the purpose of payment of scale of pay of Headmaster, in terms of Rule 1 of Chapter XXVI Kerala Education Rules, 1959. The respondent was appointed as an L.P.S.A. in an aided school on 21.6.1986. He continued in service till 9.6.1993. In the meantime, he got appointed in a Government school and joined there on 10.6.1993. Thereafter, he rejoined the parent school on 13.1.94. In the parent school, he was promoted as Headmaster. Reckoning his service in the Government school also, he was given the pay of Headmaster, which lead to the controversy and the writ petition. Learned Single Judge upheld the entitlement of the respondent to reckon the service rendered by him in the Government school for counting the 15 years of service as provided in Rule 1 of Chapter XXVI Kerala Education Rules. It is

the correctness of this finding of the learned Single Judge, which is called in question in this appeal.

2. We heard the Government Pleader appearing for the appellants and the learned counsel appearing for the respondents.

3. Rule 1 of Chapter XXVI Kerala Education Rules reads thus:

“ (1) Teachers of Aided Lower Primary, Upper Primary, High and Training Schools shall be paid the scale of pay applicable to teachers of Government, Lower Primary, Upper Primary, High and Training Schools. The Headmaster of an Aided Lower Primary School, or the Headmaster of an Aided Upper Primary School shall be given the scale of pay applicable to the Headmaster of Government School only if he has put in a minimum of 15 years continuous service as teacher in schools recognised by the Department. Those Headmasters who have not put in this minimum service shall be given their grade pay and supervision allowance as may be fixed by Government until they complete the prescribed minimum service.”

4. Reading of this provision shows that all that is required for payment of the scale of pay of Headmaster is minimum 15 years continuous service as teacher in schools recognised by the Department. According to the learned Government Pleader, this requirement in Rule I should be read in the context of Rule 37 of Chapter XIV A Kerala

Education Rules. Rule 37 provides for fixation of seniority and that Rule, in our view, cannot have any relevance in the context of Rule 1 of Chapter XXVI. Since all that Rule 1 provides minimum continuous service of 15 years as teacher in schools recognised by the Government, we are inclined to think that service rendered by teacher in a Government School also has to be treated as service rendered in a school recognised by the Department. Therefore, we have no reason to disagree with the view taken by the learned Single Judge.

Writ appeal is dismissed.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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