

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WA.No. 336 of 2015 () IN WP(C).26827/2006

**AGAINST THE ORDER/JUDGMENT IN WP(C) 26827/2006 of HIGH COURT OF KERALA
DATED 6.11.2013**

APPELLANT(S)/RESPONDENTS 1 TO 4 IN THE WPC:

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF FINANCE,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE SECRETARY,
DEPARTMENT OF GENERAL EDUCATION, THIRUVANANTHAPURAM.**
- 3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.**
- 4. THE ACCOUNTANT GENERAL (A& E),
THIRUVANANTHAPURAM.**

BY SRI.T.RAMAPRASAD UNNI, GOVERNMENT PLEADER

RESPONDENTS/PETITIONER AND 5TH RESPONDENT:

- 1. D. DHATHRIKUTTY, AGED 61 YEARS,
W/O.SREEDHARAN MOOSATH (LATE), PADINJARILLAM,
USHA NIVAS, NALLURNADU P.O., PAYOD,
MANANTHAVADI, LOWERE GRADE HINDI TEACHER,
KODUNDIRAPPALLY, S.N.U.P.SCHOOL - 670 645.**
- 2. THE MANAGER,
KODUNDIRAPPALLY S.N.U.P.SCHOOL, KODUNDIRAPPALLY,
PALAKKAD - 678 001.**

R BY SRI.BABU CHERUKARA

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

**THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.**

W.A.No.336 of 2015
&
C.M.Appl.No.201 of 2015

Dated this the 19th day of February, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned senior Government Pleader on the merits of the appeal as well. Since the application seeking condonation of delay of 421 days in institution of the appeal is supported by an affidavit which, in our view, is not satisfactory, to have mentioned sequence of dates, there is nothing worth acceptance as sufficient cause in terms of Section 5 of the Limitation Act for condonation of the enormous delay of 421 days.

2. Be that as it may, we may record that the learned senior Government Pleader would have been justified on the merits in pointing out that what the writ petitioner has been granted also carries financial benefit which would not have normally accrued unless that person was actually officiating and discharging duties and responsibilities in relation to a

particular post. The fact of the matter remains that the situation is not the making of the writ petitioner. She was illegally kept out from being given a statutory appointment. This was the result of the failure of the manager of the aided school to discharge his statutory duties in relation to Rule 51A of Chapter XIVA KER. For this, he is also visited with penalty because the learned single Judge has directed that the Government will be entitled to recover the amount from the 5th respondent, manager of the School, after making payment to the writ petitioner. We see that there is abundant merit even in that direction and in that view of the matter as well, no injustice will result to the appellant Government.

For the aforesaid reasons, the C.M. Application and the writ appeal are dismissed in limine.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG