

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C) .No. 1609 of 2012 (A)

PETITIONER(S) :

BALAKRISHNAN KOVVAPURATH,
AGED 43 YEARS, SON OF KANARAN
HABBAHAKKIM AIDED UPPER PRIMARY SCHOOL, AKKARA
ALATHUR EDUCATION SUB DISTRICT, PALAKKAD DISTRICT.

BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMSA

RESPONDENT(S) :

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

2. THE DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD DISTRICT - 678 001.

3. THE ASSISTANT EDUCATIONAL OFFICER,
ALATHUR, PALAKKAD DISTRICT - 678 541.

4. THE MANAGER
HABBAHAKKIM AIDED UPPER PRIMARY SCHOOL, AKKARA
ALATHUR EDUCATION SUB DISTRICT,
PALAKKAD DISTRICT - 678 541.

R1-R3 BY GOVERNMENT PLEADER SMT.A.LOWSY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE APPOINTMENT ORDER DATED 11-06-2007 AND THE APPROVAL THEREOF DATED 30-03-2010.

EXHIBIT P2: TRUE COPY OF THE EXTRACT OF THE AUDIT OJECTION DATED 19-04-2011 OF THE DEPUTY DIRECTOR.

EXHIBIT P3: TRUE COPY OF THE ORDER NO. G/1224/2011 OF THE ASSISTANT EDUCATIONAL OFFICER DATED 02/11/2011.

EXHIBIT P4: TRUE COPY OF THE G.O. (P) NO. 169/04/G.EDN OF THE GOVERNMENT DATED 15-06-2004.

EXHIBIT P5: TRUE COPY OF THE ORDER NO. 49229/L3/06/GE OF THE GOVERNMENT DATED 25-05-2007.

EXHIBIT P6: TRUE COPY OF THE ORDER NO. F4/34993/2009/DPI OF THE 2ND RESPONDENT DATED 14-08-2009.

EXHIBIT P7: TRUE COPY OF THE ORDER NO. 14002/H2/06/G.EDN OF THE GOVERNMENT DATED 05-04-2006.

EXHIBIT P8: TRUE COPY OF THE G.O. (P) NO. 104/2008/G/.EDN OF THE GOVERNMENT DATED 10-06-2008.

EXHIBIT P9: TRUE COPY OF THE DECISION REPORTED IN 2009(2) KLT 604 DATED 06-04-2009.

EXHIBIT P10: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN CON.CASE (C) NO.1002/2009 DATED 12-03-2010.

EXHIBIT P11: TRUE COPY OF THE JUDGMENT IN WPC NO.35002/2010-A DATED 01-12-2010.

EXHIBIT P12: TRUE COPY OF THE G.O. (P) NO.56/11/G/EDN OF THE GOVERNMENT DATED 26-02-2011.

EXHIBIT P13: TRUE COPY OF THE LETTER NO. 40873/J2/2011/G.EDN OF THE GOVERNMENT DATED 20-08-2011.

EXHIBIT P14: TRUE COPY OF THE JUDGMENT IN WPC NO. 15461/2010-G DATED 10-11-2011.

EXHIBIT P15: TRUE COPY OF THE DECISION REPORTED IN 2013 (4) KLT 921 DATED 1.11.2013

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

K.VINOD CHANDRAN, J.

W.P.(C) No.1609 of 2012

Dated this the 19th day of November, 2015

J U D G M E N T

The petitioner was appointed to a regular vacancy on 11.06.2007 in an anticipated additional vacancy. It is stated that, for the subject academic year, the said anticipated additional vacancy was also approved by the educational authorities in the staff fixation order. The approval was also granted from 11.06.2007 on the regular vacancy as per Ext.P1. However, later, on Audit, Ext.P2 objection was raised. The objection was that, the appointment made after re-opening of the school was irregular and that, the tenure in the first year can only be on daily wage basis.

2. The issue is no longer *res integra* and is covered by the judgment of this Court reported in ***Nair Service Society v. State of Kerala [2013 (4) KLT 921]*** (Ext.P15). Following the aforesaid decision, the objection in Ext.P2 is set aside and the approval as directed in Ext.P1 is affirmed.

The writ petition stands allowed.

Sd/-
K.VINOD CHANDRAN, JUDGE