

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

W.A.No. 1379 of 2015 IN WP(C).29244/2013

AGAINST THE JUDGMENT IN WP(C) 29244/2013 of HIGH COURT OF KERALA DATED 27-02-2015

APPELLANT/PETITIONER:

THE MANAGER
A.U.P. SCHOOL, KARIMPUZHA, OTTAPALAM TALUK
PALAKKAD DISTRICT.

BY ADV. SRI.V.A.MUHAMMED

RESPONDENTS/RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD - 678 001.
3. THE ASSISTANT EDUCATIONAL OFFICER,
CHERPLACHERY, PALAKKAD - 679 503.
4. THE SUPER CHECK OFFICER,
SUPER CHECK CELL, CIVIL STATION, (B BLOCK 6TH FLOOR)
KOZHIKODE - 673 020.
5. OMANA T.
W/O. UNNIKRISHNAN, KOUSTHUBAM, KARIMPUZHA
PALAKKAD DISTRICT -689 513.

R BY GOVERNMENT PLEADER SRI.M.A.FAYAZ
R BY SRI.R.K.MURALEEDHARAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.1379 of 2015

Dated this the 1st day of July, 2015

JUDGMENT

Antony Dominic, J.

The fifth respondent was working as an U.P.S.A. in the school of which the appellant is the Manager. Subsequently, she got appointed as an H.S.A. in a neighbouring school. A few days before the date on which she would have got retrenched from service, according to her under compulsion, she had to tender her resignation and got relieved. Accordingly, she joined the neighbouring school as H.S.A. But her appointment as H.S.A. in that school was not approved. Finding that she was neither here nor there, she applied for inclusion in the Teachers Package. On her representation, an enquiry was conducted and based on Ext.P7 report of the fourth respondent, Government issued Ext.P6 order including her in the Teachers Package. The appellant filed the writ petition challenging Ext.P6 and that writ petition was dismissed by the learned Single Judge. It is this judgment, which is under challenge before us.

2. We heard the counsel for the appellant, learned Government Pleader appearing for respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

3. Contention raised by the counsel for the appellant is that the fifth respondent being a resigned teacher could not have sought for inclusion in the Teachers Package. According to him, Ext.P6 order passed by the Government interfered with his right to make appointment of teachers chosen by him.

4. First of all, we do not find that any prejudice has been caused to the manager by virtue of Exts.P6 and P7. Although Kerala Education Rules recognises the right of the manager to make appointments in an aided school, taking note of the exceptional circumstances requiring rehabilitation of teachers who are thrown out of employment, the Government have formulated the scheme known as Teachers Package providing for their rehabilitation. As a result of the scheme, as and when vacancy arises in future, such teachers who are included in the package are entitled to be appointed in the parent school. When such a Scheme is in vogue and a teacher who is earlier working in the school is available to be appointed, if the considerations of the manager are bona fide, there is no reason for him to oppose such an opportunity to avail of the service of an experienced teacher. Therefore, according to us, no

prejudice has been caused to the appellant by virtue of Exts.P6 and P7.

5. Even otherwise, so long as the Teachers Package remains valid, manager cannot be heard to complain that the same affects his right to make appointment of teachers chosen by him.

6. Reading of Exts.P6 and P7 shows that taking note of the peculiar circumstances, in which the teacher had to leave the school and tender resignation, the Government included the teacher in the Teachers Package for reasons which are entirely valid.

We do not find any reason to interfere with the judgment under appeal.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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