

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 8930 of 2006 (K)

PETITIONERS :

1. Y JAMES
L.P.S.A., UPPUTHARA PANCHAYATH SCHOOL, LONETREE
UPPUTHARA, IDUKKI DIST.
2. K. SELVI,
L.P.S.A., UPPUTHARA PANCHAYATH SCHOOL, LONETREE
UPPUTHARA, IDUKKI DISTRICT.

BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS :

1. THE STATE OF KERALA
REPRESENTED BY TE CHIEF SECRETARY TO GOVERNMENT
SECRETARIATE, THIRUVANANTHAPURAM.
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.
3. THE DEPUTY DIRECTOR OF EDUCATION,
IDUKKI, THODUPUZHA.
4. THE ASSISTANT EDUCATIONAL OFFICER,
PEERMADE.
5. THE MANAGER,
PANCHAYATH L.P.S., LONETREE, UPPUTHARA.
6. THE HEADMASTER,
PANCHAYATH L.P.S., LONETREE, UPPUTHARA.

R5 & R6 BY ADV. SRI.K.JAJU BABU
R5 BY ADV. SMT.M.U.VIJAYALAKSHMI
R1-R4 BY GOVERNMENT PLEADER SRI.ABHIJETT LESSLIE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1 : COPY OF THE APPOINTMENT ORDER OF THE 1ST PETITIONER DT.22.7.2005

EXT.P2 : COPY OF THE APPOINTMENT ORDER OF THE 2ND PETITIONER DATED 20.7.2005

EXT.P3 : COPY OF NON-AVAILABILITY CERTIFICATE NO.IDB(3) 451/04

EXT.P4 : COPY OF ORDER NO.A1 376/2003 DATED 11.7.2005

EXT.P5 : COPY OF GOVERNMENT ORDER G.O.(P)NO.1/2005/G.ED. DT.1.1.2005

EXT.P6 : COPY OF CIRCULAR ISSUED BY D.P.I. DT.31.8.2005

EXT.P7 : COPY OF ORDER NO.E4924/05/N DIS.

EXT.P8 : COPY OF LETTER NO.B5/17872/05 DATED 1.12.2005 FROM 1ST PETITIONER TO IDUKKI DISTRICT EDUCATION OFFICER

EXT.P9: COPY OF JUDGMENT IN WP(C)3111/2006 DATED 1.2.2006

EXT.P10 : COPY OF REPRESENTATION DATED 20.2.2006 FROM THE PETITIONERS TO DEPUTY DIRECTOR OF EDUCATION, IDUKKI

EXT.P11 : COPY OF THE ORDER OF THE DEPUTY DIRECTOR (EDUCATION) IDUKKI DATED 7.3.2006

RESPONDENTS' EXHIBITS :

EXT.R6(a) : COPY OF THE RELIEVING ORDER NO.176/05-06 DATED 31.3.2006 ISSUED TO THE 1ST PETITIONER

EXT.R6(b) : COPY OF THE RELIEVING ORDER NO.176/05-06 DATED 31.3.2006 ISSUED TO THE 2ND PETITIONER

EXT.R6(c) : COPY OF THE APPROVAL ORDER NO.E.6479/05/K.DIS., DATED 10.05.2006 ISSUED TO THE 1ST PETITIONER

EXT.R6(d) : COPY OF THE APPROVAL ORDER NO.E.6481/05/K.DIS., DATED 10.5.2006 ISSUED TO THE 2ND PETITIONER

/TRUE COPY/

P.A TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.8930 of 2006

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioners have filed this writ petition seeking the following reliefs :

- (i) to call for the entire records leading upto Ext.P11 and to quash the same by the issuance of a writ of certiorari or any other writ, direction or order.*
- (ii) to issue a writ of mandamus compelling the respondents to approve the Ext.P1 and P2 appointments of the petitioners and to disburse their salary in the scale of pay applicable to L.P.S.As as stated in Ext.P1 and P2.*
- (iii) to issue a writ of mandamus compelling the respondents to permit the petitioner to continue in service on a regular basis even beyond 31.3.2006 with all benefit meant for a regular hand.*
- (iv) to issue any other order or direction as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case; and*
- (v) to award the cost of the petitioners in these proceedings.*

2. The petitioners were appointed as Lower Primary School Assistants in Upputhara Panchayath L.P.School through the Employment Exchange. The case of the petitioners is that, they were entitled to be regularised in service. They had submitted Ext.P10 representation for the purpose. However, by Ext.P11, the 3rd respondent rejected their request. This writ petition was filed

challenging the said action.

3. Separate counter affidavits have been filed by the 3rd respondent as well as the 6th respondent. According to the counter affidavits, the petitioners had been appointed only on daily wages. The term of their appointments were to expire on 31.03.2006. Thereafter, they were relieved from service on 31.03.2006 as evident from Exts.R6 (a) and R6(b). Their appointment orders are Exts.R6(c) and R6(d).

4. Heard. Since the petitioners were appointed through the Employment Exchange on daily wages stipulating that their term of appointment would end on 31.03.2006, they are not entitled to raise any claim for regularisation. It is seen that, they were also relieved on 31.03.2006. Though the learned counsel for the petitioner claims that, the school was subsequently taken over by the Government, no record has been produced before me to evidence the said fact. There is also no evidence to show that the petitioners are continuing in service.

In view of the above, petitioners are not entitled to any of the reliefs claimed in this writ petition. This writ petition is, therefore, dismissed.

Sd/-
K.SURENDRA MOHAN, JUDGE.

AV