

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V. ASHA

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WA.No. 1034 of 2014 () IN WP(C).19035/2009

AGAINST THE ORDER/JUDGMENT IN WP(C) 19035/2009 of HIGH COURT OF KERALA
DATED 25-03-2013

APPELLANT(S)/RESPONDENTS 1 TO 3:

-
1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.
 2. THE DISTRICT EDUCATIONAL OFFICER,
CHAVAKKAD, TRICHUR.
 3. THE ASSISTANT EDUCATIONAL OFFICER,
CHAVAKKAD, TRICHUR.

BY SR GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA

RESPONDENT(S)/PETITIONER AND 4TH RESPONDENT:

-
1. SHINI.V.U
URDU TEACHER, A.M.U.P. SCHOOL, AVIYUR
EDAKKARA P.O., TRICHUR(DISTRICT). 680518.
 2. THE MANAGER, A.M.U.P. SCHOOL
EDAKKARA.P.O., ARIYUR, TRICHUR DISTRICT. 680518.

R2 BY ADV. SMT.P.A.RINUSA
R1 BY ADV. SRI.M.R.ANISON

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

W.A.No.1034 of 2014

Dated this the 27th day of October, 2015

JUDGMENT

Asha, J.

1.The only ground on which this appeal is filed by the Government is that the writ petitioner cannot be appointed as Full Time Urdu Teacher because Sri.Abdulla, the then incumbent of the post, on whose death she was appointed, was appointed as full time Urdu teacher, by virtue of Government Order issued in 1973, on completion of 5 years service as part time Urdu teacher and not on diversion of Group C subjects.

2.The writ Petitioner challenged the orders of the educational authorities in not sanctioning a Full Time Post of Urdu Teacher in the School and seeking approval of her appointment as Full Time Urdu Teacher with effect from 5.6.1998. The Learned single Judge found that writ Petitioner was appointed in a vacancy caused by the death of Sri.Abdulla, who was originally appointed as part time Urdu teacher and got absorbed as full time teacher, on the basis of

group C diversion, as provided in Ext P1 Govt Order. Accordingly, it was found that the first respondent/writ petitioner who was appointed in his vacancy should have been appointed as Full Time Urdu teacher.

3. Though the Manager had appointed the writ petitioner as Full Time Urdu teacher, approval was granted to her only as Part Time teacher. The contention raised by the department all along was that Sri. Abdulla was granted full time benefit by virtue of G.O.(MS). No.62/73/G.Edn. dated 2.5.1973, on completion of 5 years of continuous service and therefore, the petitioner who was appointed in the vacancy caused by his death, was not entitled to be appointed as Full Time Urdu teacher, when there were only 12 periods for Urdu. Apart from that, it was contended that diversion of Group C subjects was not possible in the School, since there was already one protected hand in Physical Education in the UP School and one protected teacher in Music in the LP School. Therefore, according to the appellants, petitioner's appointment

should have been made only as Part Time Teacher. Learned single Judge found that the initial appointment of late Abdulla was as Part Time Urdu Teacher and later, a Full Time Urdu Teacher, by diversion of periods for group C subjects. As per the orders issued by Govt, such Full time posts created by diversion of periods of Group C subjects are not liable to be converted as Part Time. It was in the above circumstances that the learned Single Judge allowed the writ petition and directed to approve the appointment of the petitioner as Full Time Urdu Teacher.

4. In this appeal also, the contention of appellants is that Late Abdulla's appointment in Full Time post was not on the basis of diversion of periods of Group C subjects; but only on completing 5 years' service as Part Time teacher.

5. We heard the learned Government Pleader as well as learned Counsel for the first respondent/ writ petitioner.

6. From Ext.P2, it is clear that Sri.Abdulla was appointed as part time Urdu teacher with effect from 19.7.1979. By Ext.P3 order dated 4.12.1981, Sri.Abdulla was appointed as full time Urdu teacher with effect from 15.7.1981. But the definite case of the appellants all throughout was that Sri.Abdulla was granted full time benefit on completion of 5 years service, in the light of G.O.(Ms)No.62/73/G.Edn dated 2.5.1973 and that benefit ceased on his death. But what we find from Exts.P2 and P3 are that Full Time benefit was granted to Sri.Abdulla, even before completion of 2 years' service. Therefore, the contentions raised by the departmental authorities are baseless. More over, in Ext.P23 staff fixation order in respect of the School for the year 1984-85, as against the entry relating to the Full Time post of Urdu Teacher, it is written as "three periods divert". Similar entries are given as against the Full Time post of Sanskrit teacher also. Therefore, we are unable to accept the contention raised by the appellants that Sri.Abdulla was absorbed as Full Time Teacher on completion of 5 years' service.

7. Government itself had issued orders including Ext.P17 to the effect that a Full Time post created by group C diversion cannot be made part time thereafter. Writ Petitioner has claimed only the benefit of that Govt Order, which the learned Single Judge has granted. In these circumstances, we do not find any ground for interference with the judgment of the learned single Judge.

Hence this writ appeal fails and is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.V.ASHA, Judge.

k kb.

/True copy/

PS to Judge