

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 3260 of 2012 (F)

PETITIONER:

SHEEJA.K.,
LOWER PRIMARY SCHOOL ASSISTANT (RETRENCHED)
VIGNANA PRADAM LOWER PRIMARY SCHOOL, KEERTHANAM
PANTHAKKAL, MAHE-673310.

BY ADV. SRI. POOVAMULLE PARAMBIL ABDULKAREEM

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM-695001.
2. THE DEPUTY DIRECTOR OF EDUCATION,
KANNUR-670 001.
3. DISTRICT EDUCATIONAL OFFICER
THALASSERY-670 101.
4. THE ASSISTANT EDUCATIONAL OFFICER
P.O. CHOKLI, KANNUR DISTRICT-670 672.
5. THE MANAGER
VIGNANA PRADAM LOWER PRIMARY SCHOOL, CHOKLI P.O.
KANNUR DISTRICT-670 672.

WP(C).No. 3260 of 2012

6. P.K.JAYATHILAKAN
UPPER PRIMARY SCHOOL ASSISTANT
VIGNANA PRADAM ORIENTAL HIGH SCHOOL, CHOKLI P.O.
KANNUR DISTRICT-670672.

7. K.V.ANJALI
UPPER PRIMARY SCHOOL ASSISTANT
NOW WORKING AS LOWER PRIMARY SCHOOL ASSISTANT
VIGNANA PRADAM LOWER PRIMARY SCHOOL P.O., CHOKLI
KANNUR DISTRICT-670672.

R5 BY ADV. SRI.CIBI THOMAS
R6 & R7 BY ADV. SRI.GEORGE MATHEWS
R6 & R7 BY ADV. SMT.CELINE JOSEPH
R1-R4 BY SENIOR GOVERNMENT PLEADER SRI.P.FAZIL
R1-R2 BY ADV. SRI.GRASHIOUS KURIAKOSE (SR.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : TRUE COPY OF THE APPOINTMENT ORDER DATED 30.7.03.
- P2 : TRUE COPY OF THE ORDER G.O.(RT.) NO.956/2006/G.EDN. DATED 2.3.2006.
- P3 : TRUE COPY OF THE STAFF FIXATION ORDER NO.B3/8225/2005/D.DIS DATED 3.9.2005.
- P4 : TRUE COPY OF THE STAFF FIXATION ORDER OF VPLP SCHOOL FOR the 2005-06 DATED 13.7.2005.
- P5 : TRUE COPY OF THE ORDER NO.B3/12030/2006 DATED 27.11.2006 ISSUED BY THE 3RD RESPONDENT.
- P6 : TRUE COPY OF THE JUDGMENT DATED 21.3.2007 IN W.P.(C) NO.34368/2006.
- P7 : TRUE COPY OF THE ORDER G.O.(Rt) NO.1876/2008/G.EDN. DATED 18.4.2008.
- P8 : TRUE COPY OF THE ORDER NO.B3/8249/08 DATED 19.05.2009.
- P9 : TRUE COPY OF THE ORDER NO.B3/6883/07 DATED 17.9.08.
- P10 : TRUE COPY OF THE JUDGMENT DATED 20.06.2011 IN W.P.(C) NO.22884/2008.
- P11 : TRUE COPY OF THE ORDER G.O.(Rt) NO.147/2012/G.EDN DATED TVM, 9/1/2012.
- P12 : TRUE COPY OF THE G.O.(MS) NO.42/2011/G.EDN DATED 16.2.2011.
- P13 : TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P14 : TRUE COPY OF THE STAFF FIXATION ORDER FOR THE YEAR 2010-2011 OF V.P.L.P. SCHOOL, CHOKLI.

//TRUE COPY//

smv

P.A. TO JUDGE

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.P.(C). No.3260 of 2012

Dated this the 2nd day of July, 2015

JUDGMENT

Antony Dominic,J.

The issue raised in this writ petition is whether retrenchment of the teachers is to be placed on the combined seniority list of L.P.S.A and U.P.S.A of LP section and UP section of the school under the same management or whether it should be based on separate seniority list of teachers belonging to the aforesaid two categories.

2. This very issue was considered by the Full Bench of this Court in **Thresia v. Preethy** [2014(4) KLT 837] where this Court clarified that teachers in the UP section and teachers in the LP section of a school belonging to two different and separate categories and that if there is retrenchment of an L.P.S.A. or U.P.S.A., the seniority that is to be followed is the seniority in the respective category and not the common seniority. Though the issue is thus covered by the judgment, learned Senior Counsel appearing for the respondents Nos.6 and 7 state that in so far as

the 7th respondent is concerned, she was originally appointed as L.P.S.A and that therefore, she has a lien in that post.

3. In our view, that is not a issue which is arising within the controversy raised in the writ petition. Therefore, if at all the 7th respondent has any such claim, it is upto her to agitate the same before the appropriate forum.

In so far as the petitioner is concerned, she has a claim that though she rendered approved service till 14.7.2009, she was paid salary only upto 31.10.2006. It is made clear that if she has not been paid salary due for any period of her service, the same shall be examined by the 4th respondent and appropriate orders enabling her to receive the salary due to her will be passed by him on the production of a copy of this judgment.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

smv