

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&**

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WA.No.1980 of 2014 () IN WP(C).11846/2012

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AGAINST THE JUDGMENT IN WP(C) 11846/2012 of HIGH COURT OF KERALA
DATED 20-06-2014
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APPELLANT(S)/APPELLANTS/RESPONDENTS IN WPC :

- 1. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM 695 001**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM 695 001**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE 1**
- 4. THE ASSISTANT EDUCATIONAL OFFICER,
KOYILANDY,KOZHIKODE 1**
- 5. THE ASSISTANT EDUCATIONAL OFFICER,
VATAKARA,KOZHIKODE 1**

BY SENIOR ADV. GOVERNMENT PLEADER SRI.S.JAMAL

RESPONDENT(S)/RESPONDENTS/PETITIONERS IN WPC:

- 1. SAJITHA.P.M.
CRAFT TEACHER, CHELIYA SCHOOL, P.O CHELIA
KOZHIKODE DISTRICT 673 306**
- 2. M.SURESH KUMAR,
CRAFT TEACHER, MEPPAYIL EAST SENIOR BASIC SCHOOL
VATAKARA, KOZHIKODE DISTRICT 673 101**

BY SRI.R.K.MURALEEDHARAN

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 24-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

**THOTTATHIL B.RADHAKRISHNAN,
&
K.HARILAL, JJ.**

**W.A.No.1980 of 2014
&
C.M.Appl.No.1034 of 2014**

Dated this the 24th day of March, 2015

JUDGMENT

Thottathil B.Radhakrishnan, J.

This writ appeal stands with an application seeking condonation of delay of 147 days.

2. The appeal is by the State. It challenges the decision of the learned single Judge rendered in favour of two craft teachers, who commenced working as part time craft teachers from 1988 and 1989 respectively. The learned single Judge accepted the propositions advanced by the writ petitioners that the option exercised by them in the 1997 pay revision for service weightage being counted also by counting the part time service could not have been obliterated later on. Audit objections raised at a belated point of time were found against, and relying on the decision of this Court in **Sarojini v. State of Kerala** [2012 (2) KLT 110] the learned single Judge held that part

time service can be reckoned for service weightage and therefore, the proceedings impugned in the original petition are only to be interfered with. Consequential declarations and directions followed from the learned single Judge.

3. At the outset, we may notice that in spite of it being stated in the affidavit that legal opinion was looked into in the wake of an interim order in a pending civil appeal, the same does not by itself amount to sufficient cause to condone the delay in instituting the appeal. That position notwithstanding, we are also of the view that the impugned judgment, having regard to the aforesaid facts and because it has been rendered following the applicable precedent, does not warrant interference.

4. Be that as it may, the learned Government Pleader referred to the decision of the Division Bench in Writ Appeal No.436 of 2013 and stated that a different note has been struck in that judgment. On a deeper consideration of the contents of that judgment, we are

unable to agree. We see that the said decision was rendered predominantly on the premise that the writ petitioner was guilty of having sat back without challenging the action against that person within reasonable time. Such situation does not arise in the case in hand. We do not see that the said judgment has any impact on the questions arising for decision in this case.

In the result, the writ appeal and the C.M.Application are is dismissed *in limine*.

Sd/-
THOTTATHIL B.RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

VS

/TRUE COPY/

PA TO JUDGE