IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WA.No. 1984 of 2014 () IN WP(C).21170/2008

AGAINST THE ORDER/JUDGMENT IN WP(C) 21170/2008 - T of HIGH COURT OF KERALA DATED 14-07-2014

APPELLANT/PETITIONER:

T.P. MADHAVI, AGED 60 YEARS,
WIFE OF O.N NARAYANAN NAIR, HEADMISTRESS(RETIRED),
M.M.L.P SCHOOL,
PATTIKKARA . (RESIDING AT THANIYIL P.O, ANANDAPURAM,
NELLAYI 680 323, THRISSUR DISTRICT

BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD

RESPONDENTS/RESPONDENTS:

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1. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
   TRIVANDRUM 695 001.

2. **THE DIRECTOR OF PUBLIC INSTRUCTION,**
   JAGATHY,TRIVANDRUM 695 014.

3. **THE DEPUTY DIRECTOR OF EDUCATION,**
   AYYANTHOLE, THRISSUR 680 003.

4. **THE DISTRICT EDUCATIONAL OFFICER,**
   CHAVAKKAD,THRISSUR 680 003.

5. **THE DISTRICT EDUCATIONAL OFFICER,**
   CHAVAKKAD,THRISSUR DISTRICT - 680 506.

6. **THE ASSISTANT EDUCATIONAL OFFICER,**
   KUNNAMKULAM,THRISSUR DISTRICT 680 503.

R1 TO R6 BYSRI.S.JAMAL, GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

THOTTATHIL B.RADHAKRISHNAN &

K.HARILAL, JJ.

W.A.No.1984 of 2014

&

C.M.Appl.No.1036 of 2014

Dated this the 5th day of January, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned counsel for the appellant and the learned senior Government Pleader.

2. The appellant/writ petitioner retired from service as Headmistress. She wanted the date of effect of her appointment as Headmistress to be reckoned from 19.8.1978 claiming that she was appointed as Headmistress by the Manager as per Exhibit P2. The Manager of the aided school where the petitioner worked was not a party to the writ petition from which this appeal arises. The State Government authorities filed their specific pleadings. In paragraph 2 of their counter affidavit it was particularly stating as follows:

> " The argument of petitioner that she was

appointed by the Manager as Headmistress with effect from 19.8.1978 is not correct. If Manager had appointed the petitioner as Headmistress with effect from 19.8.1978, the appointment proposal would have been submitted to the Educational Officer concerned by the Manager for approval. If Manager had done so, the same would have been approved or rejected by the Educational Officer. No document proving the appointment proposal of petitioner as Headmistress with effect from 19.8.1978 submitted by the Manager to the Educational Officer, either rejected or approved by the Educational Officer, has not been produced. An aided school Headmistress is a drawing and disbursing officer of concerned institution. As such, treasury book of the petitioner's school would have been issued to the name of the petitioner. But treasury book of M.M.L.P.S, Pattikara is seen issued to the name of the petitioner only after 1.4.92 as per Exhibit P7(a).”

3. The afore-quoted defence set up by the statutory authorities clearly discloses that they never recognized any appointment or approved the so-called appointment of the appellant with effect from 19.8.1978 and that they denounced the theory attempted to be set up by the appellant that the treasury documents would disclose that she was the Headmistress.

4. Even with the aforesaid plea in defence being available, the appealing writ petitioner took no steps to bring home the authenticity of Exhibit P2, the so-called document, relied on to prove the appointment as Headmistress with effect from 19.8.1978. That is a document without any signature of any statutory authority. It is merely a typed out version which uses the notation “sd/-”. The Manager was the best person to speak on the veracity of any such transaction, as rightly pleaded by the State before the learned single Judge. It is a matter within the domain of the Manager to make the appointment and get the approval from the competent statutory authority which alone will bring home sustenance to the appointment. Bereft of that, we do not find any error or

illegality in the impugned judgment of the learned single Judge, dismissing the writ petition.

5. For the aforesaid reasons, this writ appeal fails.

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

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG