

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WA.No. 2656 of 2015 () IN WP(C).26153/2015

AGAINST THE JUDGMENT IN WP(C) No.26153/2015(T) OF HIGH COURT OF
KERALA DATED 13-11-2015

APPELLANT/1ST RESPONDENT:

THE MANAGER, THIRUMALA DEVASWOM HIGHER SECONDARY SCHOOL
ALAPPUZHA DISTRICT - 688 531.

BY ADVS.SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR

RESPONDENT(S)/PETITIONER AND RESPONDENTS 2 TO 6:

1. S.RAJASREE, AGED 44 YEARS
PUTHENMADAM, P.O.PATTANAKKAD, CHERTHALA - 688 531.

2. THE DISTRICT EDUCATIONAL OFFICER
CHERTHALA - 688 531, ALAPPUZHA DISTRICT.

3. THE DEPUTY DIRECTOR OF EDUCATION
ALAPPUZHA - 688 001.

4. THE DIRECTOR OF PUBLIC INSTRUCTION
JAGATHY, THRIUVANANTHAPURAM - 695 014.

5. SRI.RENJITH,
FULL-TIME MENIAL,
THIRUMALA DEVASWOM HIGHER SECONDARY SCHOOL
ALAPPUZHA DISTRICT - 688 531.

6. SRI.SANTHOSH
FULL-TIME MENIAL,
THIRUMALA DEVASWOM HIGHER SECONDARY SCHOOL
ALAPPUZHA DISTRICT - 688 531.

R BY SENIOR GOVERNMENT PLEADER SRI M.A.FAYAZ
R BY SRI.P.N.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ANTONY DOMINIC & P.V ASHA, JJ.

W.A No.2656 of 2015

Dated this the 8th day of December, 2015

JUDGMENT

Asha, J.

The Manager of the school, the 1st respondent in the Writ Petition, has filed this Writ Appeal aggrieved by the judgment of the learned Single Judge directing to ensure that the writ petitioner is appointed in the vacancy which arose on 24.10.2014, recognising her right under Rule 51B of Chapter XIV A KER.

2. The petitioner's husband died on 14.02.2010 while he was working as U.P School Assistant in the school under the 1st respondent. She had submitted her application for appointment under the dying in harness scheme, as early as on 29.03.2010 as per Ext.P2. When her application Ext.P2 was pending, the Manager filled up 2 vacancies - one each of

Part-time Menial and Full-time Menial, which arose in the school, on 30.4. 2015 and 11.5.2015, overlooking her statutory claim under Rule 51B of Chapter XIVA of Kerala Education Rules, 1958. After submitting Ext.P3 complaint on 15.5.2015, before the educational authorities, she filed the Writ Petition, seeking direction to the 1st respondent-the appellant herein to appoint her as Full Time Menial.

3. The reason now stated for denying appointment to the petitioner is the qualifications acquired by her. Ext.P2 as well as Ext.R1(a) application of the petitioner reveal the qualifications of the petitioner as : S.S.L.C, KGTE Higher (English and Malayalam), DBHPS Lower (Hindi), Advance Electronic Typewriting and Rastra Bhasha Visharadh & Rashtra Bhasha Praveen (Hindi). According to the Manager, the petitioner had sought for appointment to the post of Lower Grade Hindi Teacher and therefore he did not consider her when vacancies arose in the posts of Part-time Menial and Full-time Menial. It is further stated that she submitted Ext.P3 petition only after the appointments were made and the Manager came to know about her willingness to be appointed in those posts only thereafter.

4. The learned Single Judge found that the action of the

Manager in filling up the vacancies overlooking the statutory claim of the petitioner was illegal and directed the Manager to appoint in the place of respondent Nos.5 or 6, whichever is the first available vacancy.

5. We are of the view that the learned Single Judge has correctly appreciated the statutory right of the petitioner for compassionate appointment under Rule 51B, observing that the purpose of the very scheme itself is to help the bereaved family to get over the immediate penury caused by the death of the sole bread winner of the family. Therefore, in this case, as soon as the vacancy arose the manager ought to have appointed the petitioner, instead of filling up the vacancies by fresh hands. As rightly observed by the learned Single Judge, if at all any preference was indicated in the application for appointment as LGHT, that cannot be a reason for denying her appointment in the first vacancy, though in a lower post. There is no justification in saying that she filed objection only after appointments were made. It was incumbent on the Manager to offer appointment to the petitioner when the first vacancy arose in the School after receipt of her application.

In the above circumstances, we do not find any

circumstances to interfere with the impugned judgment.
Accordingly the Writ Appeal fails and is dismissed.

Sd/-
ANTONY DOMINIC
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge