

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WA.No. 2675 of 2015 IN WP(C).6249/2012

AGAINST THE JUDGMENT IN WP(C) 6249/2012 of HIGH COURT OF KERALA DATED 27-10-2015

APPELLANT/PETITIONER:

K P SHIMJURAJ AGED 33 YEARS
S/O.LATE K.P SANKARAN, KULAMULLA PARAMBATH HOUSE
AKKAL POST(VIA), KAVILUMPARA, KOZHIKODE 673 513

BY ADVS.SRI.I.DINESH MENON
SRI.L.RAJESH NARAYAN

RESPONDENTS/RESPONDENTS:

-
1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001
 2. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE DISTRICT 673 001
 3. THE ASSISTANT EDUCATIONAL OFFICER
KUNNUMMAL, KOZHIKODE DISTRICT 673 508
 4. THE MANAGER
DEVAR KOVIL WEST LOWER PRIMARY SCHOOL
KUNNUMMAL SUB DISTRICT, P.O THALIYIL
KOZHIKODE DISTRICT 673 508
 5. SMT.K.K REMYA
LOWER PRIMARY SCHOOL ASSISTANT
DEVAR KOVIL WEST LOWER PRIMARY SCHOOL
KUNNUMMAL SUB DISTRICT, P.O THALIYIL
KOZHIKODE DISTRICT 673 508

R BY SR. GOVERNMENT PLEADER SRI.P.FAZIL
R BY SRI.R.K.MURALEEDHARAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-12-2015 ALONG
WITH WA 2705/15, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

Writ Appeal Nos.2675 & 2705 of 2015

Dated this the 16th day of December, 2015

JUDGMENT

Antony Dominic, J.

These writ appeals are filed against the common judgment rendered by the learned Single Judge in W.P.(C)Nos.6249/12 and 4672/12 respectively. The father of the appellant was a teacher in the school of which the fourth respondent in WA.2675/15 is the manager. The teacher expired on 16.10.1997. The appellant attained majority in 2000 and by Ext.P1 claimed appointment, on the basis that he is a claimant under Rule 51(B) of Chapter XIV A KER. Accordingly, he was appointed in the school and he worked during the period 27.1.2005 to 31.3.2005. Thereafter, he abandoned the job without any intimation to the manager or anybody else.

2. Long thereafter, another leave vacancy arose in the school on 25.10.2010. Claiming appointment to that leave vacancy, appellant submitted a representation, which eventually was allowed by the Government as per Ext.P9 in W.P.(C)4672/12. Challenging the said order, the manager as well as the teacher appointed in the vacancy in question

filed W.P.(C)4672/12 and seeking implementation of the order, the appellant filed W.P.(C)6249/12. By the judgment under appeal, the learned Single Judge allowed W.P.(C)4672/12 and dismissed W.P.(C) 6249/12. It is this common judgment which is under challenge.

3. We heard the counsel for the appellant and the learned counsel appearing for the manager and the other teacher. We heard the learned Government Pleader also.

4. It is true that 51(B) of Chapter XIV A KER provides for appointment of dependents of teachers who are died-in-harness. It was in recognition of that claim that the appellant was appointed in 2002. Once an appointment is given to a claimant under 51B, statute does not recognise any further claim for such a dependent. Though the appellant had joined in service, he had abandoned the appointment. Having done so, appellant did not have any surviving right to claim the vacancy which arose in 2010. This precisely what has been laid down by the learned Single Judge also. Therefore, Ext.P9 order challenged in W.P.(C) 4272/15 was rightly set aside by the learned Single Judge and

consequently, the learned Single Judge was also justified in dismissing W.P.(C)No.6249/12. We do not find any merit in these appeals.

Appeals fail and are accordingly dismissed.

**ANTONY DOMINIC
JUDGE**

**P.V.ASHA
JUDGE**

jes