

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 4498 of 2012 (J)

PETITIONER(S):

1. SAJEEMA A., AGED 47 YEARS,
HIGHER SECONDARY SCHOOL TEACHER (COMMERCE),
A.K.M.ABDULLAKUNJU MUSLIAR, HIGHER SECONDARY SCHOOL,
MYLAPURE, UMAYYANALLUR POST, KOLLAM.
2. YAHIJA S.,
HIGHER SECONDARY SCHOOL TEACHER (COMMERCE),
T.K.M.THANGALKUNJU MUSLIAR, HIGHER SECONDARY SCHOOL,
KARIKODE, KOLLAM-691 005.

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZH

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER SECONDARY EDUCATION DEPARTMENT,
TRIVANDRUM- 695 001.
2. THE DIRECTOR,
HIGHER SECONDARY EDUCATION DEPARTMENT,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
TRIVANDRUM- 695 001.
3. THE REGIONAL DEPUTY DIRECTOR,
HIGHER SECONDARY EDUCATION, 4TH FLOOR,
CORPORATION BUILDING, PALAYAM, TRIVANDRUM- 695 146.
4. THE PRINCIPAL,
A.K.M.ABDULLAKUNJU MUSLIAR HIGHER SECONDARY SCHOOL,
MYLAPURE, UMAYYANALLUR POST, KOLLAM- 691 589.
5. THE PRINCIPAL,
T.K.M.THANGALKUNJU MUSLIAR, HIGHER SECONDARY SCHOOL,
KARIKODE, KOLLAM-691 005.

R1 TO R3 BY GOVERNMENT PLEADER SMT.SUNITH VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- p1: A TRUE COPY OF THE JUDGMENT DATED 29-03-2007 IN
W.P.(C) NO.10522 OF 2007.
- P2: A TRUE COPY OF THE JUDGMENT DATED 11.03.2008 IN
W.A.NO.2734 OF 2007.
- P3: A TRUE COPY OF THE GOVERNMENT ORDER G.O. (MS)NO.71/2010/G.EDN.
DATED 14.05.2010.
- P4: A TRUE COPY OF THE PROCEEDINGS IN FAVOUR OF THE 1ST PETITIONER
DATED 04-08-2011.
- P5: A TRUE COPY OF THE PROCEEDINGS IN FAVOUR OF THE 2ND PETITIONER
DATED 15-09-2009.
- P6: A TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1ST PETITIONER
DATED 01.07.2011.
- P7: A TRUE COPY OF THE APPLICATION SUBMITTED BY THE 2ND PETITIONER
DATED 14.07.2009.
- P8: A TRUE COPY OF THE ORDER DATED 06.06.2011 BY THE 2ND RESPONDENT.
- P9: A TRUE COPY OF THE ORDER IN W.P.(C) NO. 28074 OF 2011.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 4498 of 2012

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioners approached this Court for a direction to the 3rd respondent to sanction the fixation of pay to the petitioners in the revised scale of pay and higher grade, reckoning the period of leave as duty.

2. The petitioners were granted leave for attending B.Ed Degree Course. Later, the 1st respondent declined to consider the said period of leave for the purpose of reckoning the service benefits payable to the petitioners including higher grade, revision in pay scale etc. The petitioners approached this Court challenging the same, which lead to Ext.P2 judgment holding that the petitioners are entitled to have their period of leave reckoned for all service benefits following Ext.P2. The Government also issued Ext.P3 order conferring the benefit of counting of the leave period for all service

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benefits. Later, on the ground that the State has carried the matter before the apex court, the respondents issued Ext.P8 Government Order directing to keep in abeyance the benefits conferred on the petitioners as per Exts.P1 and P2 judgments and Ext.P3 Government Order. According to the petitioners, Ext.P8 is per se illegal in so far as the mere filing of a Special Leave Petition could never be a ground justifying non-implementation of the directions in Exts.P1 and P2 judgments. The petitioners also sought for appropriate directions requiring the respondents to pass consequential orders granting the benefits of Exts.P1 and P2 judgments and Ext.P3 GO.

3. However, subsequently, this Court passed an interim order dated 23.02.2012 directing the 3rd respondent to sanction the fixation of pay to the petitioners in the revised scale of pay and grant higher grade reckoning the period of leave granted to them for attending the B.Ed.Course. It was made clear that the same would be subject to the outcome of the Special

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Leave Petitions pending before the apex court. The petitioners were further directed to file an undertaking to that effect before the authorities concerned.

4. Today, when the matter came up for hearing, the learned counsel for the petitioners submitted that eventually, the Special Leave Petition was dismissed.

5. The learned Government Pleader submitted that a portion of the period of leave applied for by the petitioners comes after amendment.

However, this Court is of the view that the above aspect is immaterial in granting the relief prayed for. Therefore, this Court is of the view that the interim order can be made absolute.

In the result, the writ petition is disposed of making the interim order absolute.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-