

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C) .No. 3960 of 2011 (T)

PETITIONER(S) :

1. M.S.SWAPNA
(MATHEMATICS) MES HIGHER SECONDARY SCHOOL
SREENARAYANAPURAM, VEMBALLUR, KODUNGALLUR DELETED
THRISSUR DISTRICT.
2. STANLEY JOSEPH VADASSERY,HIGH SCHOOL
ASSISTANT (MATHEMATICS)MES HIGHER SECONDARY SCHOOL DELETED
SREENARAYANAPURAM, VEMBALLUR, KODUNGALLUR
THRISSUR DISTRICT.
3. SEEMA.K.V,HIGH SCHOOL ASSISTANT
(SOCIAL STUDIES)MES HIGHER SECONDARY SCHOOL DELETED
SREENARAYANAPURAM, VEMBALLUR, KODUNGALLUR
THRISSUR DISTRICT.

(PETITIONERS 1 TO 3 ARE DELETED FROM THE PARTY ARRAY AS PER ORDER
DATED 04/04/2012 IN IA 5077/2012)

4. SHAHANA.P.A,HIGH SCHOOL ASSISTANT
(MALAYALAM)MES HIGHER SECONDARY SCHOOL
SREENARAYANAPURAM, VEMBALLUR, KODUNGALLUR
THRISSUR DISTRICT.

BY ADV. SRI.V.RAJENDRAN

RESPONDENT(S) :

1. STATE OF KERALA
TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.
2. DISTRICT EDUCATIONAL OFFICER,
IRINJALAKUDA 680 121.
3. THE CORPORATE MANAGER,,MES SCHOOLS,
MUSLIM EDUCATIONAL SOCIETY, CALICUT 673 001.

R3 BY ADV. SRI.BABU KARUKAPADATH

R2 BY ADV. SMT.M.A.VAHEEDA BABU

BY ADV. SRI.JAGAN GEORGE

BY ADV. SRI.P.G.PRAMOD

R1 BY GOVERNMENT PLEADER SRI.A.MOHAMMED SAVAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3960 of 2011 (C)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 - TRUE COPY OF GO(MS) No.249/09.G.Edn DATED 17.12.2009

EXT.P2 - TRUE COPY OF GO9MS) No.19/09/G.Edn DATED 09.02.2009.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

A.M.SHAFFIQUE, J.

W.P.(C) No.3960 of 2011

Dated this the 10th day of April, 2015

JUDGMENT

Petitioner challenges Ext.P1 to the limited extent of approving her appointment as H.S.A in the school managed by the 3rd respondent with effect from 01.02.2006. She claims appointment effective from 25.07.2005. It is pointed out that by judgment dated 22.09.2011 in W.P.(C) No.564 of 2009 similarly placed persons had been granted benefits and this Court has directed their appointment to be effective from the date on which they were actually appointed, with all consequential benefits. Paragraph 11 and 12 of the said judgment reads as follows:

“11. All the questions raised herein, have been considered by this Court in Nadeera's case (2011(3) KLT 790) and all the Government orders including G.O(P) no.178/2002/G.Edn. dated 28.06.2002 have been considered therein. This Court held that there is no enabling provision which allows the Educational officer to postpone the approval till a protected hand is appointed. It was also held that when the list of protected teachers is not communicated, the Manager cannot be faulted and reference was made to various judgments including Ext.P20 herein. Therefore, the same

dictum also applies to the facts of this case. Since Ext.P20 relates to the very same school, petitioners' cases being on the same footing, it can be safely relied upon here. In that view of the matter, the petitioners are also entitled for approval of their appointment, as the Manager has already complied with the obligation to appoint protected teachers.

12. Therefore, the writ petitions are allowed. The impugned orders in both the writ petitions, viz.Exts.P1 to P4 in W.P.(C) No.564/2009 and Exts.P1 and P2 in W.P.(C) No.1916/2009 are quashed. It is declared that the petitioners' appointments are liable to be approved from the dates of appointment itself. The District Educational Officer will pass appropriate orders in the matter within a period of two months from the date of receipt of a copy of this judgment. Consequential monetary benefits also will be disbursed to the petitioners accordingly, without further delay. No costs."

Having regard to the aforesaid factual situation, I am of the view that this writ petition is also to be allowed and accordingly, Ext.P1 is modified to the extent of approving the appointment of the petitioner with effect from 25.07.2005 and there will be a direction to the respondent authorities to issue appropriate orders within a period of two months from the date of receipt of a copy of this judgment. It is made clear that the petitioner will be entitled for other consequential benefits.

Sd/-
A.M.SHAFIQUE, JUDGE