

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

OP.No. 24780 of 2001 (Y)

PETITIONER(S):

**ANNAMMA MATHEW
L.P.S.A, CMS L.P SCHOOL
NENMALA, KOTTAYAM.**

**BY ADVS.SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE**

RESPONDENT(S):

- 1. THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. THE ASSISTANT EDUCATIONAL OFFICER
PAMPADY, KOTTAYAM DISTRICT.**
- 3. THE HEAD MASTER
C.M.S L.P. SCHOOL
NEMALA, KOTTAYAM DISTRICT**

R,R1 & R2 BY ADV. GOVERNMENT PLEADER SRI. S. JAMAL

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP.No. 24780 of 2001 (Y)

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE STATEMENT OF FIXATION OF PAY OF THE
PETITIONER NO.K.DIS.C.1 1449/91 DATED 25.9.91 ISSUED BY
THE 2ND RESPONDENT.**
- EXT.P2 COPY MEMO NO.C.1979/2000 DATED 9.10.2000 ISSUED BY THE
2ND RESPONDENT ALONG WITH AUDIT ENQUIRY NOTE.**
- EXT.P3 COPY OF EXPLANATION SUBMITTED BY THE PETITIONER
DATED 28.11.2000.**
- EXT.P4 COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED
14.3.2000.**
- EXT.P5 COPY OF ORDER NO.C. 1979/00 DATED 30.7.01 ISSUED BY THE
2ND RESPONDENT TO 3RD RESPONDENT.**

RESPONDENTS EXHIBITS:

NIL

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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O.P No.24780 of 2001 - Y

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Dated this the 8th day of September, 2015

J U D G M E N T

The petitioner, a retired L.P School Assistant is aggrieved with the attempt of the Government to cancel Ext.P1 after considerable distance of time. The petitioner was an L.P. School Assistant in the 3rd respondent school, which is an aided school. The petitioner had provisional service in a Government School early to the petitioner's appointment in the 3rd respondent school, coming to 7 months and 14 days. Ext.P1 was an order dated 25.09.1991, which took note of the earlier service, for the purpose of determining the date of increment and granting grade pay. Subsequently after 9 years, the same was sought to be revoked on the basis of an audit objection.

2. The contention of the learned Government Pleader

is also that the same does not comply with the Government Decision No.2 under Rule 33 of Part I Kerala Service Rule. Though the contention of the Government seems to be correct, the issue is covered by a Division Bench decision of this Court reported in **Narayanan v. State of Kerala [2008(3) KLT 188]**, wherein the petitioner, who retired as a Head Master of a Government L.P School has been earlier to his appointment in the Government School, teaching in an aided school for 6 months and 15 days, which was reckoned for the purpose of increment and grade pay.

3. A Division Bench of this Court held that the earlier order granting the prior service in an aided school cannot be interfered with after a long period of time and no recovery or reduction of pay can be ordered. In the present case, the situation is identical, but for the fact that the provisional service counted was of a service in a Government school and the petitioner had been regularly appointed in an aided school and

retried therefrom.

Following the aforesaid binding precedent, the writ petition is allowed setting aside Exts.P2 and P3. The consequential benefits will also enure to the petitioner. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

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P.A to Judge.