

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 4299 of 2011 (J)

PETITIONER(S):

**MARY PAUL, HSST (HINDI),
ST.GEORGE HIGHER SECONDARY SCHOOL, KOTHAMANGALAM
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SMT.DHANYA CHANDRAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REP.BY SECRETARY TO
GOVERNMENT, GENERAL EDUCATION DEPARTMENT
GOVT.SECRETARIAT, TRIVANDRUM-695 001.**
- 2. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION, HOUSING BOARD BUILDING, SHANTHI NAGAR
TRIVANDRUM-695 001.**
- 3. THE CORPORATE MANAGER,
CORPORATE EDUCATIONAL AGENCY
DIOCESE OF KOTHAMANGALAM-686 691.**

R, BY ADV. GOVERNMENT PLEADER E.M.ABDUL KHADIR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

avk

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1 : TRUE COPY OF G.O.(MS.).351/04/H.EDn. DATED 20.11.2004
ISSUED BY THE 1ST RESPONDENT**

**EXT.P2 : TRUE COPY ORDER NO.ACD.A1-18576/HSE/2001 DATED
20.12.2005 ISSUE BY THE 2ND RESPONDENT**

**EXT.P3 : TRUE COPY OF ORDER NO.ACD.A1/18576/HSE/2001 DATED
6.8.2009 ISSUED BY THE 2ND RESPONDENT**

**EXT.P4 : TRUE COPY OF REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED
31.8.2009.**

**EXT.P5 : TRUE COPY OF ORDER NO.35506/T2/2008/G.EDN DATED
7.1.2011 ISSUED BY THE 1ST RESPONDENT**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

A.M.SHAFIQUE, J.

W.P.(C).No. 4299 of 2011

Dated this the 12th day of November, 2015

JUDGMENT

The petitioner has approached this Court challenging Ext.P3 and P5. Ext.P3 is an order passed by the Director of Higher Secondary Education on 6.8.2009 indicating that since the appointment of Smt.Mary Paul, the petitioner cannot be considered under by transfer category she is not entitled for the benefit of G.O.(M.s). No.351/04/G/Edn dated 20.11.2004 granted as per office order dated 20.12.2005. Though the petitioner submitted representation to Government, as Ext.P4, by Ext.P5 dated 7.1.2011, Government observed that since the petitioner was working as part time teacher which is not equivalent to H S A/UPSA/LPSA, she is not entitled for benefit as per Government Order dated 20.11.2004.

2. The contention raised by the petitioner is that the benefit of Government Order dated 20.11.2004 was granted to the petitioner as per Ext.P2 order dated 20.12.2005. However, after four years, by Ext.P3, the said order had been canceled, which order was confirmed

by the Government. According to the petitioner, Ext.P3 order has been passed in violation of principles of natural justice. The petitioner submits that he is entitled for the benefits of the Government Order dated 20.11.2004 and it was rightly granted by the Director of Higher Secondary Education in terms of Ext.P2.

3. Counter affidavit has been filed by the second respondent supporting the stand taken by them.

4. The fact remains that the benefit granted to the petitioner had been withdrawn without notice to the petitioner. In such circumstances, I am of the view that Ext.P3 and P5 are liable to be set aside and an opportunity should be granted to the petitioner to ventilate her grievance. Accordingly, this writ petition is allowed.

5. Exts.P3 and P5 are quashed. The second respondent shall consider the matter afresh after hearing the petitioner and appropriate order may be passed in accordance with the procedure prescribed.

Sd/-
A.M.SHAFIQUE
JUDGE

//TRUE COPY//

PA TO JUDGE