

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 6280 of 2010 (H)

PETITIONER:

**ABDUL GAFOOR.T.P.,
PEON, M.E.S.H.S.S. MANNARKKAD,
MANNARKKAD COLLEGE P.O.
MANNARKKAD, PALAKKAD DIST.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.**
- 3. DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD.**
- 4. DISTRICT EDUCATIONAL OFFICER,
MANNARKKAD, PALAKKAD DIST.**
- 5. THE CORPORATE MANAGER,
M.E.S.H.S.S. MANNARKKAD, MANNARKKAD COLLEGE P.O.
MANNARKKAD, PALAKKAD DIST.**

**BY ADVS. SRI.BABU KARUKAPADATH
SRI.M.A.VAHEEDA BABU
SRI.JAGAN ABRAHAM M.GEORGE
SRI.A.ABDUL SAMAD
SRI.K.A.NAUSHAD
SRI.P.GPRAMOD**

BY GOVERNMENT PLEADER SRI. P.M. JOSEPH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 - COPY OF THE APPOINTMENT ORDER DATED 05.06.2002
- EXHIBIT P2 - COPY OF THE JUDGMENT DATED 19.09.2006 IN WP(C) NO.20612 OF 2006
- EXHIBIT P3 - COPY OF THE LETTER DATED 20.02.2007
- EXHIBIT P4 - COPY OF THE APPOINTMENT ORDER DATED 06.06.2007
- EXHIBIT P5 - COPY OF THE ORDER DATED 21.12.2007
- EXHIBIT P6 - COPY OF THE APPEAL PETITION DATED 16.02.2008
- EXHIBIT P7 - COPY OF THE LETTER DATED 10.03.2008
- EXHIBIT P8 - COPY OF THE PROCEEDINGS DATED 16.07.2009
- EXHIBIT P9 - COPY OF THE JOINING REPORT DATED 13.08.2009
- EXHIBIT P10 - COPY OF THE ORDER DATED 29.11.2008
- EXHIBIT P11 - COPY OF THE JOINING REPORT DATED 19.12.2008
- EXHIBIT P12 - COPY OF THE ORDER DATED 10.09.2008
- EXHIBIT P13 - COPY OF THE REVISION DATED 20.09.2008 SUBMITTED BEFORE THE DPI
- EXHIBIT P14 - COPY OF THE ORDER DATED 25.07.2009
- EXHIBIT P15 - COPY OF THE REVISION DATED 19.08.2009 SUBMITTED BY THE MANAGER BEFORE THE GOVERNMENT
- EXHIBIT P16 - COPY OF THE LETTER DATED 18.12.2009
- EXHIBIT P17 - COPY OF THE DETAILS OF PROTECTED TEACHERS DEPLOYED TO GOVERNMENT SCHOOLS
- EXHIBIT P18 - COPY OF THE MEMO DATED 26.06.2008 ISSUED BY THE DEO, PALAKKAD
- EXHIBIT P19 - COPY OF THE MEMO DATED 29.03.2008 ISSUED BY DEO, OTTAPPALAM

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.6280 of 2010

Dated this the 16th day of September, 2015.

JUDGMENT

The petitioner was appointed as a Peon in M.E.S. Higher Secondary School, Mannarkkad on 05.06.2002 and thereafter as a HSA by Ext.P4 on promotion on 06.06.2007. The approval of appointment as HSA was rejected by Ext.P5 on the ground that no protected teachers were appointed by the Manager. Ext.P5 stood confirmed by Exts.P12,P14 and P16.

2. The issue is no longer *res integra* and is covered by a Division Bench decision of this Court reported in ***State of Kerala v. Nadeera [2013 (2) KLT 88]***. The Division Bench categorically found that the Manager cannot be expected to go after the Department to get a list of protected teachers and the Manager is also not expected to know the details of protected teachers in the District, for making appointments to the

vacancies arising in the School. Admittedly no list has been forwarded by the Department to the Manager of the present School.

3. In such circumstances, Exts.P5,P12,P14 and P16 are set aside. The petitioner's appointment shall be approved. All consequential benefits shall be disbursed to the petitioner within a period of four months from the date of receipt of a certified copy of this judgment.

The writ petition is allowed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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