IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 3891 of 2015 (J)

PETITIONER(S)/PETITIONER:

SHEEBA.L, AGED 40 YEARS
ASSISTANT, KERALA STATE COUNCIL FOR CHILD WELFARE
THYCAUD, THIRUVANANTHAPURAM-695014.

BY ADVS.SRI.G.SASIDHARAN CHEMPAZHANTHIYIL
SRI.S.VISHNU

RESPONDENT(S)/RESPONDENTS:

---

1. STATE OF KERALA,
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY
SOCIAL JUSTICE DEPARTMENT, GOVERMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. KERALA STATE COUNCIL FOR CHILD WELFARE,
REPRESENTED BY ITS GENERAL SECRETARY, THYCAUD
THIRUVANANTHAPURAM-695014.

3. THE ADMINISTRATIVE OFFICER-IN-CHARGE,
KERALA STATE COUNCIL FOR CHILD WELFARE, THYCAUD
THIRUVANANTHAPURAM-695014.

4. THE DISTRICT COLLECTOR,
CIVIL STATION, KUDAPPANAKUNNU, THIRUVANANTHAPURAM
-695043.

5. T.JAYAKUMARI,
OFFICE SUPERINTENDENT KERALA STATE COUNCIL
FOR CHILD WELFARE
THYCAUD, THIRUVANANTHAPURAM-695014.

R2-R3 BY ADV. SRI.BLAZE K. JOSE, SC, KSCCW
R2 & 3 BY ADV. SRI.K.JAJU BABU (SR.)
R2 & 3 BY ADV. SMT.M.U.VIJAYALAKSHMI, SC, KSCCW
R BY GOVERNMENT PLEADER SMT A LOUSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 TRUE COPY OF ORDER NO.A2/2384/KSCCW/2011 DATED 23-11-2011 ISSUED BY THE GENERAL SECRETARY,KERALA STATE COUNCIL FOR CHILD WELFARE

EXT.P2 TRUE COPY OF ORDER NO.E1/3578/2000/KSCCCW DATED 14-11-2000

EXT.P2(A) TRUE COPY OF OFFICE CIRCULAR DATED 18-10-2000 INVITING APPLICATIONS FOR THE POST OF OFFICE SUPERINTENDENT FROM AMONG THE REGULAR EMPLOYEES OF THE COUNCIL

EXT.P3 TRUE COPY OF THE DEGREE CERTIFICATE OF THE PETITIONER ISSUED BY THE UNIVERSITY OF KERALA

EXT.P4 TRUE COPY OF THE CERTIFICATE ISSUED BY KPSC TO THE PETITIONER

EXT.P5 TRUE COPY OF THE G.O(MS)NO./35/2009/SWD ISSUED BY THE IST RESPONDENT

EXT.P6 TRUE COPY OF THE G.O(RT)NO/179/2012/SWD DATED 29.03-2012 ISSUED BY THE IST RESPONDENT

EXT.P7 TRUE COPY OF THE INTERIM ORDER DATED 27-3-2012 IN WP(C)2783 OF 2012 OF THE HONOURABLE HIGH COURT

EXT.P8 TRUE COPY OF THE KERALA STATE COUNCIL FOR CHILD WELFARE SERVICE RULES

EXT.P9 TRUE COPY OF THE ORDER NO.494/2014/KSCCW DATED 8-1-2014 ISSUED BY 4TH RESPONDENT.

EXT.P10 TRUE COPY OF REQUEST DATED 25-3-2014 ADDRESSED TO THE IST RESPONDENT BY THE PETITIONER

EXT.P10(A) TRUE COPY OF REQUEST DATED 25-3-2014 ADDRESSED TO THE 4TH RESPONDENT BY THE PETITIONER

EXT.P11 A TRUE COPY OF REQUEST DATED 29-10-2014 SUBMITTED BY THE PETITIONER

EXT.P12 A TRUE COPY OF THE COMMUNICATION NO.AO/1108/2014/KSCCCW DATED 24-11-2014 ISSUED BY THE ADMINISTRATIVE OFFICER,KERALA STATE COUNCIL FOR CHILD WELFARE TO THE PETITIONER.

EXT.P13: TRUE COPY of the CERTIFICATE ISSUED BY THE PSC TO THE PETITIONER

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

- -

W.P(C) No. 3891 of 2015

- -

Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioner seeks regular promotion as Office Superintendent. The petitioner is an Assistant Grade II in the 2nd respondent. When a regular vacancy arose on the retirement of the incumbent Office Superintendent on 31.03.2014, the petitioner staked a claim to the said post. The petitioner though was not the senior most among the Assistants, was the only person who was test qualified. The essential qualification for the post of Office Superintendent, is a Graduation and pass in Manual of Office Procedure (MOP), a test conducted by the Public Service Commission. Exts.P3 and P4 evidences that petitioner has both the said qualifications.

2. The vacancy arose on 31.03.2014 on retirement of the incumbent Office Superintendent. However, the said Office Superintendent had taken leave prior to the retirement form

08.01.2014, on which date, admittedly, the petitioner was not test qualified. Hence the senior most Assistant, the 5th respondent was put in charge of the post of Office Superintendent. By the time, the incumbent retired on 31.03.2014 the petitioner had qualified and was the only person who was entitled to be promoted to the said post.

3. A very detailed counter affidavit, affirmed by the District Collector, has been filed since he has been put in charge of the 2nd respondent by this Court in WP(C) No.2783/2012, by order dated 27.03.2012. The appointing authority is said to be the Executive Committee. The District Collector who has been put in charge as the Administrator of the 2nd respondent could definitely look into the qualification of the petitioner and appoint her subject however, to the ratification by the Executive Committee. Though notice has been issued to the 5th respondent, none appears.

In such circumstances, there shall be a direction to the

3rd respondent to appoint the petitioner after verifying her qualifications, assessing her suitability and eligibility and move for ratification from the Executive committee. The same shall be done within two weeks from the date of receipt of a certified copy of this judgment.

With the above direction, writ petition is disposed of. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge