

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 8214 of 2011 (B)

PETITIONER(S) :

- 1. BESSY THOMAS, AGED 37 YEARS,
WIFE OF JASTIN VARGHESE, UPPER PRIMARY SCHOOL ASSISTANT,
PIUS GIRLS HIGH SCHOOL, EDAPPALLY.**
- 2. SUMI.A.M., AGED 30 YEARS,
WIFE OF MARTIN U.E.,UPPER PRIMARY SCHOOL ASSISTANT,
ST. GEORGE HIGH SCHOOL, EDAPPALLY.**

**BY ADVS.SRI.T.V.VIJAYARAJAN
SRI.M.SAJJAD**

RESPONDENT(S) :

- 1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT EDUCATIONAL OFFICER,
ERNAKULAM-682 011.**
- 3. THE GENERAL MANAGER,
CORPORATE EDUCATIONAL AGENCY, FORANE CHURCH,
EDAPPALLY-682 024.**
- 4. SMT. SINI ANTONY,
ST.JOSEPH'S L.P.SCHOOL, KAKKANAD,
ERNAKULAM DISTRICT.**
- 5. SMT. BENCY PAULOSE, UPPER PRIMARY
SCHOOL ASSISTANT, PIUS GIRL'S HIGH SCHOOL,
EDAPPALLY.**
- 6. SMT. ANN RESHMI.G,
MALAMEL HOUSE,NEAR MARY MATHA SCHOOLS B.M.C.(POST),
KAKKANAD, ERNAKULAM DISTRICT.**

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*** ADDITIONAL R7 IMPEADED**

**7. PRINCY GEORGE,
VATHIKULAM HOUSE, MAROTTICHODE, EDAPPALLY,
COCHIN- 682 024.**

*** ADDITIONAL R7 IS IMPEADED AS PER ORDER DATED 12.03.2015 IN
I.A.NO.7766/2011.**

**R1 & R2 BY SR.GOVERNMENT PLEADER SMT.SUNITHA VINOD
R3 BY ADVS. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
R4 BY SRI.ABRAHAM VAKKANAL (SENIOR ADVOCATE)
ADVS. SRI.PAUL ABRAHAM VAKKANAL
SRI.DIJO SEBASTIAN
SMT.VINEETHA SUSAN THOMAS
R5 & R7 BY ADVS. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.M.V.JOSEPH (ALAPPUZHA)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** TRUE COPY OF THE ORDER OF APPOINTMENT OF THE 1ST PETITIONER DATED 20.06.2008.
- EXHIBIT P2:** TRUE COPY OF THE ORDER OF APPOINTMENT OF THE 2ND PETITIONER DATED 02.06.2008.
- EXHIBIT P3:** TRUE COPY OF THE G.O.(MS.)NO.42/2011/G.EDN. OF THE GOVERNMENT DATED 16.02.2011.
- EXHIBIT P4:** TRUE COPY OF THE LETTER NO.35528/J3/04/G.EDN. OF THE GOVERNMENT DATED 11.10.2004.
- EXHIBIT P5:** TRUE COPY OF THE DECISION REPORTED IN 2004(2)K.L.T.899 DATED 29.06.2004.
- EXHIBIT P6:** TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.3427/2006 OF THIS HON'BLE COURT DATED 19.10.2007.
- EXHIBIT P7:** TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.25667 OF 2010-G DATED 22.12.2010.
- EXHIBIT P8:** TRUE COPY OF THE LETTER NO.77115/L3/09/G.EDN. OF THE GOVT. DATED 21.04.2010.
- EXHIBIT P9:** TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.25601 OF 2010-G DATED 29.03.2011.
- EXHIBIT P10:** TRUE COPY OF THE FULL BENCH DECISION OF THIS HON'BLE COURT 2014(4) KLT 837.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R5(A):** TRUE COPY OF ORDER NO.C-1133/2011 DATED 09.03.2011 ISSUED BY THE ASSISTANT EDUCATIONAL OFFICER.
- EXHIBIT R5(B):** TRUE COPY OF ORDER NO.1478/L3/11/G.EDN DATED 17.03.2011 ISSUED BY THE 1ST RESPONDENT.

//TRUE COPY//

P.A.TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.8214 of 2011

Dated this the 12th day of March, 2015

JUDGMENT

This writ petition is filed challenging Ext.P3 Government Order. It is stated in the Government Order that in the event of retrenchment of the teachers in Upper Primary Schools having L.P. Section, U.P.S.As and L.P.S.As shall be treated as a single category and junior among them shall be retrenched.

2. The Full Bench judgment of this Court in **Thresia v. Preethy [2014 (4) KLT 837 (FB)]** held that 'the teachers in the U.P. Section and the teachers in the L.P. Section of a School belong to two different and separate categories. If there is occasion for retrenchment of an U.P.S.A. or a L.P.S.A., the seniority that is to be followed is the seniority in the respective category and not the common seniority.'

In view of the above, I am of the view, the above Government Order is set aside. Accordingly, the writ petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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