

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 6074 of 2015 (H)

PETITIONER(S):

**PRINCY A.JOHN AGED 35 YEARS
W/O.REV.FR.REJI SAMUEL, THANNAMPADIKAL HOUSE
KIZHAKKEBHAGAM
PATHANAPURAM - 689 695 (PART TIME HIGH SCHOOL ASSISTANT(HINDI)
ST.GEORGE ASHRAM HIGH SCHOOL, CHAYALODE)**

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENT(S):

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM - 695001.**
- 3. THE DEPUTY DIRECTOR (EDUCATION)
OFFICE OF THE DEPT. DIRECTOR (EDUCATION)
PATHANAMTHITTA AT THIRUVALLA**
- 4. THE DISTRICT EDUCATIONAL OFFICER, OFFICE OF THE
DISTRICT EDUCATIONAL OFFICER, PATHANAMTHITTA**
- 5. THE MANAGER, MMC CORPORATE MANAGEMENT SCHOOLS,
CATHOLICATE ARAMANA, DEVALOKAM, KOTTAYAM - 686 038.**

R BY GOVERNMENT PLEADER, SMT. M.J. RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1- TRUE COPY OF THE APPOINTMENT ORDER DATED 15.9.2003 THUS
ISSUED BY RESPONDENT NO.5
- EXT.P1(A)- TRUE COPY OF THE APPROVAL ORDER DATED 4.7.2009
- EXT.P2- TRUE COPY OF THE APPOINTMENT ORDER DATED 4.6.12 ISSUED BY
THE RESPONDENT NO.5
- EXT.P3- TRUE COPY OF THE ORDER BEARING NO.B4/5503/12 DATED 25.2.2013
ISSUED BY RESPONDENT NO.4
- EXT.P4- TRUE COPY OF THE GOVERNMENT ORDER DATED 12.10.2006
- EXT.P5- TRUE COPY OF THE CIRCULAR DATED 18.5.2007 ISSUED BY
RESPONDENT NO.1
- EXT.P6- TRUE COPY OF THE JUDGMENT DATED 18.10.11 PASSED BY THIS
HONOURABLE COURT IN WPC NO. 34604 OF 2008
- EXT.P7- TRUE COPY OF THE JUDGMENT DATED 4.2.2014 PASSED BY A
DIVISION BENCH OF THIS HONOURABLE COURT IN WA NO. 30/2014
- EXT.P8- TRUE COPY OF THE JUDGMENT DATED 9.7.2014 IN WPC NO.22377
OF 2013
- EXT.P9- TRUE COPY OF THE JUDGMENT DATED 4.7.14 IN WPC NO. 13689
OF 2014
- EXT.P10- TRUE COPY OF THE JUDGMENT DATED 4.7.14 IN WPC NO.13167
OF 2014
- EXT.P11- TRUE COPY OF THE ORDER DATED 6.8.13 PASSED BY
RESPONDENT NO.3

RESPONDENT(S)' EXHIBITS

NIL.

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 6074 of 2015

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Dated this the 17th day of July, 2015

JUDGMENT

The petitioner, who is a Rule 51A claimant in a school under the management of the 5th respondent, was appointed as Part Time High School Assistant (Hindi) in the school with effect from 04.06.2012. When the appointment was forwarded for approval, the 4th respondent denied approval to the said appointment on the ground that the school in question was an uneconomic school and therefore, the vacancy arising in the school had to be filled by appointing protected teachers. It is aggrieved by the orders of the educational authority, that the petitioner has approached this Court in the present writ petition.

2. I have heard the learned counsel for the petitioner, and also the learned Government Pleader for respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in the instant case, the approval to the appointment of the petitioner to the vacancy that arose with effect from 04.06.2012 was denied only on the ground that the School in question was an uneconomic School, and therefore, that the appointment to any vacancy that

arose could only be of a protected teacher. I note in this connection, that by Exts.P6 and P7 judgments of this Court, it has been held, following the decision of this Court in **Ciji.P.Jose v. State of Kerala and Others [2012 (1) KLT 867]** that when it comes to an inter se claim between a Rule 51 A claimant and a protected teacher, the claim of the Rule 51 A claimant will prevail in the matter of appointment to regular vacancies that arise in an uneconomic School. In that view of the matter, I see no reason why the petitioner cannot be extended the same benefit as was extended to the petitioners in the aforementioned cases. Accordingly, the writ petition is allowed by directing the 3rd respondent to approve the appointment of the petitioner on regular scale of pay basis from 04.06.2012 onwards and to regularise the service with effect from the said date.

The respondents shall do the needful in ensuring that the petitioner is paid all consequential benefits within a period of three months from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das

The word "3rd respondent" occurring in the last sentence in paragraph 3 at page 2 of the judgment dated 17/07/2015 in W.P.(C) No.6074/2015 is corrected as "4th respondent", vide order dated 21/08/2015 in I.A 12273/2015.

sd/-
Registrar (Judicial)