

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. 9193 of 2011 (Y)

PETITIONER :

E.U.GEETHA, D/O.UNNI (LATE)
AGED 45 YEARS, UPPER PRIMARY SCHOOL ASSISTANT
AIDED U.P. SCHOOL, KANNARA, THRISSUR EAST
EDUCATION SUB DISTRICT, THRISSUR DISTRICT.

BY ADVS.SRI.K.E.HAMZA
SRI.T.V.VIJAYARAJAN
SRI.M.SAJJAD

RESPONDENTS :

-
1. THE STATE OF KERALA REPRESENTED BY ITS
SECRETARY TO GOVERNMENT GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001
 2. THE ASSISTANT EDUCATIONAL OFFICER,
THRISSUR EAST-680 005.
 3. THE MANAGER, AIDED U.P.SCHOOL,
KANNARA, THRISSUR DISTRICT-680 652.
 4. THE HEADMISTRESS, AIDED U.P.SCHOOL,
KANNARA, THRISSUR DISTRICT-680 652.
 5. SRI.A.SREEVALSAN, LOWER PRIMARY SCHOOL
ASSISTANT, AIDED U.P.SCHOOL, KANNARA
THRISSUR DISTRICT-680 652.

*ADDL. R6 IMPEADED :

6. SHEELA IV W/O. JOJO RAPHAEL
CHALACKAL HOUSE, PIPE LINE ROAD,
MANNUTHY, THRISSUR

*ADDL.R6 IMPEADED VIDE ORDER DT 30/5/2011 IN IA 6637/11.

R1 & R2 BY GOVERNMENT PLEADER SMT. LOWSY A
R5 BY ADVS. SRI.K.JAJU BABU
SRI.T.R.SADEESAN
SMT.M.U.VIJAYALAKSHMI

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

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER DT 20/9/1999.**
- P1(A): COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER DT 3/1/2000.**
- P1(B): COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER DT 6/6/2001.**
- P2: COPY OF THE ORDER NO. B-777/2011 OF THE ASSISTANT EDUCATIONAL OFFICER, THRISSUR EAST 11/3/2011.**
- P3: COPY OF THE GO(MS) NO. 42/2011 /G.EDN. OF THE GOVERNMENT DT 16/2/2011.**
- P4: COPY OF THE LETTER NO. 35528/J3/04/G.EDN. OF THE GOVERNMENT DT 11/10/2004.**
- P5: COPY OF THE DECISION REPORTED IN 2004(2) KLT 899 DT 29/6/2004.**
- P6: COPY OF THE JUDGMENT IN WPC NO. 23606/2008 OF THIS HONOURABLE COURT DT 14/2/2011.**
- P7: COPY OF THE DECISION REPORTED IN 2011(1) KLT 663.**
- P8: COPY OF THE LETTER NO. 77115/L3/09. G.EDN. OF THE GOVT.**
- P9: COPY OF THE INTERIM ORDER IN WPC NO.8214/2011.**
- P10: COPY OF THE APPEAL FILED BY THE MANAGER DT 25/8/2008.**
- P11: COPY OF THE APPEAL FILED BY THE PETITIONER DT 6-10-2008.**
- P12: COPY OF THE STAFF FIXATION ORDER 2008-09 DT 9/3/2009**
- P13: COPY OF THE LETTER NO. B-4886/08 OF THE ASSISTANT EDUCATIONAL OFFICER DT 11/3/2009.**
- P14: COPY OF THE LETTER OF THE PETITIONER.**
- P15: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO. 25061/2010 G**
- P16: COPY OF THE DECISION REPORTED IN 2011(2) KLT SHORT NOTES 51 (C. NO. 68) DT 27-05-2010**

RESPONDENT'S EXHIBITS :

- EXT.R5(A): COPY OF STAFF FIXATION ORDER NO. DIS.-2267/08 DT 15/7/2008 ISSUED BY THE ASSISTANT EDUCATIONAL OFFICER, TRICHUR.**

//TRUE COPY//

P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.9193 of 2011

Dated this the 12th day of March, 2015

JUDGMENT

The petitioner is working as UPSA. Pursuant to Exts.P2 and P3, there were division fall in LPSA, the petitioner is ordered to be retrenched being the junior most in the combined category of UPSA and LPSA. It is challenging the above, the petitioner has approached this Court.

2. The Full Bench this Court in **Thresia v. Preethy [2014 (4) KLT 837 (FB)]**, it was 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 UPSA or a LPSA, the seniority that is to be followed is the seniority in the respective category and not the common seniority.

In the light of the above dictum, the writ petition is allowed. The impugned orders are set aside to the extent ordering retrenchment of the petitioner. In view of the setting aside of the impugned orders, the petitioner is entitled for all admissible salary and the same shall be paid, if not already paid, without any delay.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ln