

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 9224 of 2011 (C)

PETITIONER(S):

**SREEKALA M.,
UPPER PRIMARY SCHOOL ASSISTANT,
KURAVANGAD SOUTH U.P SCHOOL,
KOYILANDY, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.V.A.MUHAMMED,
SRI.K.E.HAMZA.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM - 695 014.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE - 673 020.**
- 4. THE ASSISTANT EDUCATIONAL OFFICER,
KOYILANDY, KOZHIKODE DISTRICT - 673 305.**
- 5. THE MANAGER, KURAVANGAD SOUTH UP SCHOOL,
KOYILANDY - 673 305, KOZHIKODE DISTRICT.**
- 6. THE HEADMASTER,
KURAVANGAD SOUTH UP SCHOOL, KOYILANDY,
KOZHIKODE DISTRICT - 673 305.**
- 7. SRI.JINACHANDRAN, S/O.NARAYANAN NAIR,
LOWER PRIMARY SCHOOL ASSISTANT,
KURAVANGAD SOUTH U.P. SCHOOL,
KOYILANDY-673 305, KOZHIKODE DISTRICT,
(RESIDING AT VENGILOT HOUSE,
P.O. NADERY-673 326, KOYILANDY, CALICUT).**

WP(C).No. 9224 of 2011 (C)

- 8. SRI.K. SHIJU, LOWER PRIMARY SCHOOL ASSISTANT,
KURAVANGAD SOUTH U.P. SCHOOL, KOYILANDY,
KOZHIKODE DISTRICT-673 305.**

**R1 TO R4 BY SR. GOVT. PLEADER SMT.SUNITHA VINOD.
R5 & R6 BY ADV. SRI.R.K.MURALEEDHARAN.
R7 BY SRI.N.N.SUGUNAPALAN, SENIOR ADVOCATE.
ADV. SRI.S.SUJIN.
R8 BY ADV. SRI.MAHESH V.RAMAKRISHNAN.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER DATED 02/06/2003.
- EXT.P2 COPY OF THE STAF FIXATION ORDER 2009-10 DATED 23/11/2009.
- EXT.P3 COPY OF THE ORDER NO.B3/913/10(1) OF THE DEPUTY DIRECTOR DATED 30/06/2010.
- EXT.P4 COPY OF THE G.O.(RT) NO.5384/2010/G.EDN. OF THE GOVT. DATED 01/12/2010.
- EXT.P5 COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C).NO.1742/2011-P DATED 18/01/2011.
- EXT.P6 COPY OF THE ORDER NO.D. DIS. 18537/2010 OF THE ASSISTANT EDUCATIONAL OFFICER DATED 10/02/2011.
- EXT.P7 COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C).NO.25667/2010-G DATED 22/12/2010.
- EXT.P8 COPY OF THE DECISION REPORTED IN 1999 (3) KLT 912 DATED 07/10/1999.
- EXT.P9 COPY OF THE G.O.(MS) NO.42/2011/G.EDN. OF THE GOVERNMENT DATED 16/02/2011.
- EXT.P10 COPY OF THE ORDER NO.13313/J1/10/G.EDN. OF THE GOVERNMENT DATED 19/03/2010.
- EXT.P11 COPY OF THE PROCEEDINGS OF THE ASSISTANT EDUCATIONAL OFFICER DATED 17/03/2011.
- EXT.P12 COPY OF THE SENIORITY LIST OF THE SCHOOL DATED NI.
- EXT.P13 COPY OF THE DECISION REPORTED IN ILR 2014 (4) KER.610 DATED 08/10/2014.

RESPONDENT'S EXHIBITS:-

- EXT.R5A COPY OF THE RELEVANT PAGES OF THE STAFF FIXATION ORDER DATED 21/07/2007 FOR THE ACADEMIC YEAR 2007-08.

WP(C).No. 9224 of 2011 (C)

EXT.R5B COPY OF THE ORDER OF THE 4TH RESPONDENT DATED 26/03/2008.

**EXT.R5C COPY OF THE ORDER DATED 05/12/2008 OF THE 4TH RESPONDENT
ALLOWING RETENTION UNDER 1:40 RATIO.**

**EXT.R8A COPY OF THE STAFF FIXATION ORDER NO.D.DIS. D.3472/07
DATED 21/07/2007 FOR THE YEAR 2007-08 ISSUED BY THE A.E.O.,
KOYILANDY.**

//TRUE COPY//

PA. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

= = = = =

W.P.(C) No.9224 of 2011

= = = = =

Dated this the 6th day of April, 2015

JUDGMENT

Petitioner approached this Court challenging Ext.P11. It was ordered that the petitioner being the junior most in the combined category of UPSA and LPSA shall be retrenched consequent upon the division fall.

2. The petitioner submits that the division fall is only in LPSA and in the light of declaration of law of this Court in **Thresia v. Preethy** (2014 (4) KLT 837), for the purpose of retrenchment, respective category has to be followed; not to the combined category of UPSA and LPSA.

In the light of the above, Ext.P11 is set aside. There shall be a direction to the AEO to re-consider the matter, after hearing the petitioner, Manager and affected teachers within a period of two months.

A. MUHAMED MUSTAQUE, JUDGE

sj