

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 17692 of 2006 (F)

PETITIONER:

**P.V.YOUNUS SALIM, H.S.A. (ENGLISH)
KUNNAMANGALAM HIGHER SECONDARY SCHOOL, KOZHIKODE.**

**BY ADVS.SRI.P.J.MATHEW
SRI.THOMAS JOHN AMBOOKEN**

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, TRIVANDRUM.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
TRIVANDRUM.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
THAMARASSERY, KOZHIKODE DISTRICT.**
- 5. THE MANAGER, KUNNAMANGALAM HIGHER
SECONDARY SCHOOL, KOZHIKODE.**
- 6. SMT.PRIYA.M., H.S.A. (PHYSICAL SCIENCE),
KUNNAMANGALAM HIGHER SECONDARY SCHOOL, KOZHIKODE.**

**BY GOVERNMENT PLEADER SRI. S. JAMAL
BY ADVS. SRI.T.G.RAJENDRAN
SRI.JACOB ABRAHAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :-

- EXT.P1 - COPY OF THE ORDER OF THE DEPUTY DIRECTOR OF
EDUCATION DATED 31.05.2004.
- EXT.P2 - COPY OF THE ORDER OF THE 2ND RESPONDENT DATED
07.03.2005.
- EXT.P3 - COPY OF THE GOVERNMENT ORDER DATED 30.05.2006 AS
NO.K.DIS.31480/03/B5.
- EXT.P4 - COPY OF THE ORDER OF THE GOVERNMENT DATED
07.01.2002 AS NO.G.O.(MS) NO.11/2002/G.EDN.
- EXT.P5 - COPY OF THE

RESPONDENTS' EXHIBITS:-

- EXT.R6(A) - COPY OF THE JUDGMENT IN WP(C) NO.22277 OF 2005 OF
THIS COURT.
- EXT.R6(B) - COPY OF THE REVISION FILED BY THE PETITIONER BEFORE
THE GOVERNMENT ON 16.08.2005.

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.17692 of 2006

Dated this the 25th day of September, 2015.

JUDGMENT

The petitioner is aggrieved by the fact that the petitioner's appointment as HSA (English) with effect from 05.06.2002 has been approved, but was subsequently withdrawn. The controversy arose on the petitioner and the 6th respondent being appointed on 05.06.2002 respectively in the vacancy of HSA (English) and HSA (Physical Science). As on the year 2002-2003, the sanctioned posts and the available hands are follows:

<i>Subject</i>	<i>Sanctioned</i>	<i>Available</i>
<i>Physical Science</i>	5	5 including the 6 th respondent
<i>Natural Science</i>	3	3
<i>Maths</i>	5	7
<i>Social Studies</i>	5	6
<i>English</i>	5	2

2. The petitioner obviously was appointed in a retirement

vacancy of one HSA (Maths) in the previous year. Hence, the available teachers shown for Maths in the table above is in addition to the retirement vacancy. The petitioner was appointed as an HSA (English) under the retirement vacancy of HSA (Maths) as permitted by G.O.(MS) No.11/2002/G.Edn. dated 07.01.2002. The 6th respondent's approval was rejected on the ground that the Manager had not sought for cancellation of the petitioner's approval. Subsequently, however the 6th respondent was approved and the petitioner's approval was cancelled. The question now to be decided is as to whether the petitioner's appointment is proper and is entitled to be approved.

3. Admittedly, English was made a core subject by GO(MS) No.11/2202/G.Edn. dated 07.01.2002. However, care was taken by the Government in so far as directing any retrenched HSA in another core subject to be accommodated in HSA (English), so as to avoid retrenchment, especially since 2002, English was taught by HSA's of other core subjects. Hence, the implementation of the G.O. and appointment of HSA (English) was to be in a phased manner.

4. In the subject academic year, as is seen from the list above, there were two excess Maths teachers and one excess Social Science teacher. To avoid their retrenchment, they had to be necessarily accommodated as HSA (English). On such accommodation being made; coupled with the two HSA (English) already appointed, the sanctioned posts would be filled and there would be no vacancy for appointment of the petitioner.

In such circumstances, this Court does not find any reason to interfere with the impugned orders.

The writ petition would stand dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

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