

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(C).No. 11401 of 2015 (A)

PETITIONER(S):

**LEEZA MATHEW M., HEADMISTRESS,
(UNDER ORDERS OF SUSPENSION), AGED 51 YEARS
TMVHSS, PERUMPILAVU, THRISSUR DISTRICT.**

**BY ADVS.SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI**

RESPONDENT(S):

- 1. STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS, DIRECTORATE OF PUBLIC
INSTRUCTIONS, JAGATHY, THIRUVANANTHAPURAM - 695 014.**
- 3. THE DISTRICT EDUCATIONAL OFFICER, CHAVAKKAD - 680 506.**
- 4. THE ASSISTANT PROVIDENT FUND OFFICER, THRISSUR - 680 001.**
- 5. THE MANAGER, TMVHSS, PERUMPILAVU, THRISSUR DISTRICT - 680 519.**
- 6. SMT.K.G.JINU, HIGH SCHOOL ASSISTANT (PS) TMVHSS, PERUMPILAVU,
THRISSUR DISTRICT - 680 519.**

**R6 BY ADV. SRI.K.B.GANGESH
R1-3 BY GOVERNMENT PLEADER SMT.A.LOWSY
R4 BY SMT.T.N.GIRIJA, SC,EPF ORGANISATION**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF THE NOTICE NO.R 8/2252/14 DATED 15.10.2014 WAS ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT.P2: COPY OF THE JOINT REPLY DATED 25.10.2014 SUBMITTED BY PETITIONER AND THE CLERK TO THE 4TH RESPONDENT.
- EXT.P3: COPY OF THE COMMUNICATION NO. R 8/2252/14 DATED 11.11.2014 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT.P4: COPY OF THE REPLY DATED 25.11.2014 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.
- EXT.P5: COPY OF THE LETTER DATED 21.11.2014 GIVEN BY C.K.JOJU, THE CONCERNED CLERK, TO THE 4TH RESPONDENT.
- EXT.P6: COPY OF THE LETTER NO.R 8/2252/14 DATED 11.12.2014 ISSUED BY THE 4TH RESPONDENT TO THE 2ND RESPONDENT.
- EXT.P7: COPY OF THE COMMUNICATION NO.PF GENERAL (1)/95033/14/PI DATED 14.1.2015 ISSUED BY THE 2ND RESPONDENT TO THE 4TH RESPONDENT.
- EXT.P8: COPY OF THE REPLY DATED 11.2.2015 (WRONGLY TYPED AS 11.2.2014) GIVEN BY THE PETITIONER TO EXT.P7.
- EXT.P9: COPY OF THE COMMUNICATION NO.16212/2015/DPI DTED 16.3.2015 ISSUED BY THE 2ND RESPONDENT TO THE 5TH RESPONDENT MANAGER.
- EXT.P10: COPY OF THE NOTICE DATED 28.3.2015 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- EXT.P11: COPY OF THE EXPLANATION DATED 30.3.2015 SUBMITTED BY THE PETITIONER TO THE 5TH RESPONDENT.
- EXT.P12: COPY OF THE ORDER 1/2015 DATED 31.3.2015 ISSUED BY THE 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J.

W.P.(C).No.11401 of 2015

Dated this the 30th day of November, 2015

JUDGMENT

The petitioner is aggrieved with the order of suspension at Ext.P9 and P12. The petitioner was suspended for lapses in remittance of contribution of the provident fund, of the 6th respondent teacher. The very same incident had led to several litigations before this Court.

2. The 6th respondent was appointed as UPSA on 04.06.2007 and she was promoted as HSA on 03.06.2013. The 6th respondent's salary was deducted with the provident fund contributions, by the Headmistress. The said deductions were to be credited to the Assistant Provident Fund Officer. However, later, it turned out that the remittances were not made properly and there is no account opened in the name of the 6th respondent. The remittances were made to fictitious accounts and two remittances of Rs.60,000/- and Rs.5,000/- were made in the name of two

other teachers, who were not even working in the 5th respondent School. The 6th respondent filed a writ petition numbered as W.P.(C).No.17097/15, which was disposed of by judgment dated 22.09.2015. This Court directed the Assistant Provident Fund Officer, who is the 4th respondent herein also, to transfer the entire amounts deducted from the salary of the petitioner to the petitioner's provident fund account along with interest due, within a period of 6 months. The said direction was on the premise that the 4th respondent had categorically admitted that the amounts were available with him, but however could not be reckoned to the specific account of the 6th respondent, for reason of the remittances having been made to fictitious account numbers.

The Lower Division Clerk, who was responsible for making such remittances was also suspended and he had also filed a writ petition numbered as W.P.(C). No.11715/2015, wherein there was a stay order, by virtue of which, he was continued in service. The said writ petition

was disposed of after taking note of the circumstance of the grievance of the 6th respondent having been redressed. The disciplinary enquiry, if any, was directed to be continued. But however, the suspension was set aside and the Lower Division Clerk was directed to be continued in service.

In the present case, the contention of the petitioner is that she was appointed as a teacher-in-charge only from 01.04.2013 and as a Headmistress on 02.06.2014. The discrepancy with respect to the remittance of provident fund contributions of the 6th respondent, originated some time in the year 2008, when some other teacher was in charge. The learned Government Pleader however submits that the discrepancy in the remittance continued, even after the petitioner took charge and also after the petitioner was promoted as HSA. In any event, if there is any supervisory lapses, alleged against the petitioner, definitely the appropriate authority could take disciplinary proceedings but that need not necessarily result in the suspension of the petitioner. In such circumstances, Ext.P9 and 12 to the

extent it directs suspension of the petitioner shall be set aside. The enquiry if any shall be continued and the petitioner shall co-operate with the enquiry proceedings.

The writ petition is disposed of. No costs.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS