

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 12393 of 2015 (Y)

PETITIONER(S):

**M.N.BABURAJAN AGED 54 YEARS
S/O.K.R.NANU, 'KRISHNETH' ANGADICKAL, PUTHENCAVU P.O.
CHENGANNUR
ALAPPUZHA DISTRICT (HIGH SCHOOL ASSISTANT (MATHS)
DEVASWOM BOARD HIGHER SECONDARY SCHOOL CHERIYANAD)**

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 DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER
MAVELIKARA.**
- 4. THE CORPORATE MANAGER/SECRETARY
TRAVANCORE DEVASWOM BOARED SCHOOLS, NANDHANCODE
THIRUVANANTHAPURAM. 695001.**

**R4 BY ADV. SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD
R1-R3 BY ADV. GOVERNMENT PLEADER, SRI. RINNY STEPHEN CHAMAPARAMBIL
R BY SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE APPROVED APPOINTMENT ORDER DATED 2/6/1997 ISSUED BY RESPONDENT NO.4.
- EXT.P2. TRUE COPY OF THE GOVERNMENT ORDER DATED 7/2/1994.
- EXT.P2(A). TRUE COPY OF THE GOVERNMENT ORDER DATED 18/6/1998.
- EXT.P2(B). TRUE COPY OF THE GOVERNMENT ORDER DATED 18/12/2002.
- EXT.P2(C). TRUE COPY OF THE GOVERNMENT ORDER DATED 5/11/2007.
- EXT.P2(D). TRUE COPY OF THE GOVERNMENT ORDER DATED 5/6/2013.
- EXT.P3. TRUE COPY OF THE REQUEST DATED 6/8/2014 SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.4
- EXT.P4. TRUE COPY OF THE REQUEST DATED 17/11/2014 SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.4
- EXT.P5. TRUE COPY OF THE ORDER DATED 5/12/2014 PASSED BY RESPONDENT NO.4
- EXT.P6. TRUE COPY OF THE ORDER DATED 31/1/2015 PASSED BY RESPONDENT NO.3 APPROVING LIEN SHIFTING.
- EXT.P7. TRUE COPY OF THE APPLICATION DATED 8/12/2014 SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.
- EXT.P7(A). TRUE COPY OF THE REQUEST DATED 18/12/2014 SUBMITTED BY THE RESPONDENT NO.4 BEFORE RESPONDENT NO.3.
- EXT.P8. TRUE COPY OF THE ORDER BEARING ROC 9219/12/EDN DATED 23/2/2015 PASSED BY RESPONDENT NO.4
- EXT.P9. TRUE COPY OF THE ORDER DATED 24.04.2015 PASSED BY RESPONDENT No.3

RESPONDENT(S)' EXHIBITS

NIL.

// True copy //

PA to Judge

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 12393 of 2015

Dated this the 28th day of July, 2015

JUDGMENT

The petitioner is the senior most High School Assistant (Maths), working in the Aided schools under the management of the 4th respondent. The writ petition was filed in the wake of a situation, where the petitioner had sought to cancel an unavailed portion of leave and rejoined the school prior to the expiry of the period of leave that was availed. It is the case of the petitioner that, when he reported for duty at the school, the 4th respondent Manager did not permit him to join the school. Subsequently however, the 4th respondent passed Ext.P5 order dated 05.12.2014 posting the petitioner as High School Assistant in the school and therefore, the petitioner rejoined duty with effect from 08.12.2014. The petitioner thereafter, by virtue of an interim order passed by this Court, obtained the salary for the period from 08.12.2014, when he was working as HSA (Maths) after rejoining the school. The period of 26 days from 12.11.2014 to 07.12.2014, during which the petitioner was kept out of service, was not, however, regularised and unless regularised, it would be treated as break in service for the petitioner. The petitioner has therefore preferred Exts.P7 and P7(a) applications before the 1st respondent, seeking extension of the leave period availed by him to cover the period of

26 days, so as to get the period of 26 days regularised in order to avoid a situation where the said period would be treated as a break in service. The limited prayer of the petitioner at this stage is for a direction to the 1st respondent to consider and pass orders on Exts.P7 and P7(a), expeditiously, after hearing the petitioner.

2. I have heard Sri.Subhash Chand, the learned counsel appearing for the petitioner, Adv.M.V.S. Namboodiri, the learned Standing counsel for the 4th respondent and also the learned Government Pleader for official respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Exts.P7 and P7(a), within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall produce a copy of the writ petition, together with a copy of this judgment before the 1st respondent for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE