

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 16436 of 2012 (D)

PETITIONER(S):

**S.ANITHAKUMARI, AGED 49 YEARS
HIGHER SECONDARY SCHOOL TEACHER (HR.GR)(COMMERCE)
RAJA RAVI VARMA HIGHER SECONDARY SCHOOL FOR GIRLS
KILIMANOOR, THIRUVANANTHAPURAM-695601.**

**BY ADVS.SRI.B.RAGUNATHAN
SRI.G.GOPALAKRISHNA PILLAI
SRI.P.KARTHIKEYAN
SRI.R.SRINATH
SRI.VIPIN VARGHESE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM-695001.**
- 3. REGIONAL DEPUTY DIRECTOR,
HIGHER SECONDARY EDUCATION, 4TH FLOOR
THIRUVANANTHAPURAM CORPORATION BUILDING
THIRUVANANTHAPURAM-695033.**
- 4. MANAGER,
RAJA RAVI VARMA SCHOOLS, KILIMANOOR.P.O
THIRUVANANTHAPURAM-695601.**

R1-R3 BY ADV.RAFEEL V.K., GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C) NO.16436/2012

APPENDIX

PETITIONER'S EXHIBITS:

- P1: COPY OF THE ORDER DATED 16.08.2002 OF THE 2ND RESPONDENT
- P2: COPY OF THE ORDER DATED 16.02.2003 OF THE 2ND RESPONDENT
- P3: COPY OF GO(RT) NO.5458/2005/G.EDN DATED 23.11.2005
- P4: COPY OF THE B.ED DEGREE CERTIFICATE DATED 27.02.2006 ISSUED BY THE UNIVERSITY OF KERALA
- P5: COPY OF THE ORDER DATED 08.06.2011 OF THE 2ND RESPONDENT
DETAILING ABOUT THE GOS DATED 14.05.2010 AND 19.10.2010
- P6: COPY OF THE LETTER DATED 06.06.2011 OF THE 2ND RESPONDENT

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16436 of 2012

Dated this the 25th day of February, 2015

JUDGMENT

Aggrieved by the denial of salary on regular basis to the petitioner, she has come up before this Court.

2. The petitioner was appointed to the post of HSST Commerce in the Schools of the 4th respondent on 12.07.1999. At the time of her appointment, she possessed M.Com degree. Petitioner alleges that her appointment was approved by the 2nd respondent by Exts.P1 and P2 orders dated 16.08.2002 and 16.02.2003 respectively. She underwent B. Ed course after availing Leave Without Allowance from 02.08.2004 to 31.05.2005. After acquisition of B.Ed degree, her appointment was regularised by order dated 10.10.2006; it is alleged. The petitioner further alleges that the 1st respondent, by Government Order dated 14.05.2010 had accorded sanction for regularisation of service of petitioners in W.P.(C). No.25408/2000 and connected cases from the date of their initial appointment and granted all service benefits to them from the date of

1st appointment subject to condition that the date of appointment is on or before 14.11.2000 and they have obtained B.Ed qualification. The petitioner further alleges that the said benefits were directed to be made applicable to similarly placed HSST by Government Order dated 19.10.2010. Petitioner points out that she by all means is similarly placed as she was appointed on 15.07.1999 and obtained B.Ed within the time granted by the Government. Therefore according to the petitioner, she is entitled to reckon the entire period of service including the period of Leave Without Allowance for the purpose of increments, higher grade, fixation of pay on pay revision, etc.

3. The grievance of the petitioner is that the petitioner's right was intercepted by Ext.P6 issued by the 2nd respondent on the ground that Special Leave Petitions are pending before the Honourable Supreme Court. It is with this background the petitioner has come up before this Court.

4. This Court, by the interim order dated 16.07.2012, directed the respondents to disburse the amount claimed by the petitioner on her filing an undertaking that in the event of the Special Leave Petition pending before the Apex Court being allowed, she would refund the amount received by her. It was

further directed that the amount shall be disbursed to the petitioner within a period of one month from the date of the order. Today, when the matter came up for hearing, the learned counsel for the petitioner produced a copy of the order of the Honourable Supreme Court in SLP No.5151/2007 and connected cases. The SLPs were disposed of as under:

“In our opinion, the view expressed by the learned Single Judges and the Division Bench on the eligibility of the respondents cannot be termed as wholly erroneous warranting reconsideration by this Court.

Another reason for our disinclination to interfere with the impugned judgment and orders is that the respondents have already served as teachers in Higher Secondary Schools for 10 to 12 years and at this belated stage, there is no justification to deprive them of the only source of their livelihood.”

5. As the SLP filed by the State has been dismissed by the Apex Court, this Court is of the view that the interim order already passed can be made absolute and the direction can be issued to the respondent to release all monitory benefits to the petitioner consequent to the interim order which is being made absolute.

Therefore, the writ petition is disposed of making the

interim order absolute.

It is hereby made clear that the entire consequential monitory benefits due to the petitioner shall be paid within one month from the date of receipt of a copy of this judgment.

JV

SD/-
A.V. RAMAKRISHNA PILLAI,
JUDGE