

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937**

**WP(C).No. 12918 of 2014 (L)**  
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**PETITIONER:**  
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**RASNA .S,  
LOWER PRIMARY SCHOOL ASSISTANT,  
KOOTTOOR AIDED UPPER PRIMARY SCHOOL,  
KOOTTOOR P.O, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.ABRAHAM MATHEW (VETTOOR)  
SRI.SRI.ANIL ABHEY JOSE**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY,  
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. DIRECTORATE OF PUBLIC INSTRUCTIONS,  
THIRUVANANTHAPURAM, PIN - 695 001.**
- 3. DEPUTY DIRECTOR OF EDUCATION,  
KOZHIKODE, PIN - 673 004.**
- 4. THE MANAGER, KOOTTOOR AIDED  
UPPER PRIMARY SCHOOL, KOOTTOOR P.O,  
KOZHIKODE DISTRICT - 673 614.**
- 5. S.JINESH, UPPER PRIMARY SCHOOL ASSISTANT,  
KOOTTOOR AIDED UPPER PRIMARY SCHOOL,  
KOOTTOOR P.O, KOZHIKODE DISTRICT, PIN - 673 614.**
- 6. THE ASSISTANT EDUCATIONAL OFFICER,  
PERAMBRA, KOZHIKODE, PIN - 673 004.**

**R1 TO R3 & R6 BY GOVT. PLEADER SMT.SUNITHA VINOD  
R5 BY ADVS. SRI.S.P.ARAVINDAKSHAN PILLAY  
SMT.N.SANTHA  
SRI.K.A.BALAN  
SRI.PETER JOSE CHRISTO  
SRI.S.A.ANAND**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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- EXHIBIT P1 : A TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE EDUCATIONAL AUTHORITIES TO THE PETITIONER DATED 5/6/2007.
- EXHIBIT P2 : A TRUE COPY OF THE PROCEEDINGS OF THE 4TH RESPONDENT DATED 16/7/2009.
- EXHIBIT P3 : A TRUE COPY OF THE ORDER ISSUED BY THE 6TH RESPONDENT TO THE PETITIONER DATED 11/2/2010.
- EXHIBIT P4 : A TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT DATED 15/6/2010.
- EXHIBIT P5 : A TRUE COPY OF THE ORDER PASSED BY THE ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTION (ACADEMIC) DATED 30/3/2011.
- EXHIBIT P6 : A TRUE COPY OF THE G.O PASSED BY THE ADDITIONAL DPI DATED 16/2/2011.
- EXHIBIT P7 : A TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH COURT, OF KERALA IN WPC NO.28516/2010 DATED 29/3/2011.
- EXHIBIT P8 : A TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 31/8/2011.
- EXHIBIT P9 : A TRUE COPY ORF THE ORDER ISSUED BY THE 6TH RESPONDENT TO THE HEADMASTER OF KOTTOOR AUPS DATED 16/8/2011.
- EXHIBIT P10 : A TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH COURT,OF KERALA IN WPC 27988/2011 DATED 27/6/2013.
- EXHIBIT P11 : A TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT AS G.O.R.T.NO.1398/2014 /G.EDN DATED 24/3/2014.

**RESPONDENT(S)' EXHIBITS:**

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- EXT.R5(A) : TRUE COPY OF ORDER NO.D.DIS.B/2656/2010 DATED 11.5.2011 OF THE ASSISTANT EDUCATIONAL OFFICER, PERAMBRA.
- EXT.R5(B) : TRUE COPY OF ORDER NO.D.DIS/B/2394 DATED 15.7.2014.

/TRUE COPY/

P.S. TO JUDGE

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**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C)No.12918 of 2014**

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**Dated this the 25<sup>th</sup> day of March, 2015**

**JUDGMENT**

This writ petition is filed by the petitioner, who is working as LPSA in an aided School, aggrieved by Ext.P11 order passed by the Government has approached this Court.

2. In the aided School, the petitioner and the 5<sup>th</sup> respondent were appointed as LPSA and UPSA respectively. There was division fall in UPSA and treating the petitioner as junior most and combined category of LPSA and UPSA, the petitioner was ordered to be retrenched as per Ext.P11. It is challenging this order, the petitioner has approached this Court.

3. The Full Bench of this Court in **Thresia M.L. v. Preethy M.P. [2014 (4) KHC 822]** held that if there is occasion for retrenchment of an UPSA or a LPSA, seniority

that is to be followed is the seniority in respective category and not the seniority of the combined category. In the light of the above judgment, I am of the view, Ext.P11 requires reconsideration. Accordingly, Ext.P11 is set aside. There shall be a direction to the first respondent to reconsider the matter after advertizing to **Thresia's** case (*supra*) and hearing the petitioner, 5<sup>th</sup> respondent and the Manager of the School within a period of two months. Till a decision is taken in this matter, no action shall be taken against the petitioner for recovery of any salary from the petitioner. All other contentions available to the petitioner and the 5<sup>th</sup> respondent are left open.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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