

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 23381 of 2005 (H)

PETITIONERS:

- 1. BEENA ANTONY, D/O.K.V.ANTONY,
NOW WORKING AS HSST (JR), (CHEMISTRY)
ACHAMMA MEMORIAL HSS, KALAKETTY P.O., KANJIRAPPALLY.**
- 2. GIGY NICHALAVOS, KUNNANNATH HOUSE,
W/O.JOJY GORGE, NOW WORKING AS HSST (JR), (PHYSICS)
A.M.HIGHER SECONDARY SCHOOL, KALAKETTY P.O.
KANJIRAPPALLY.**

BY ADV. SRI.BENOY THOMAS

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM.**
- 3. CORPORATE MANAGER,
CORPORATE MANAGEMENT OF SCHOOLS
DIOCESE OF KANJIRAPPALLY, P.B.NO.22, PASTORAL CENTRE
KANJIRAPPALLY-686 507.**

**BY ADV. SMT.MINI ELIZABETH GEORGE
BY GOVERNMENT PLEADER SRI. T.R. RAJESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS :-

- EXT.P1 SERIES- COPIES OF APPOINTMENT ORDERS OF PETITIONERS 1 AND 2
ISSUED BY 3RD RESPONDENT DATED 30.06.2003 AND
30.12.2003 RESPECTIVELY.
- EXT.P2 SERIES- COPIES OF APPROVAL ORDERS OF PETITIONERS 1 AND 2
ISSUED BY 2ND RESPONDENT DATED 29.11.2003 AND
19.06.2004 RESPECTIVELY.
- EXT.P3 - COPY OF THE JUDGMENT PASSED BY THIS COURT DATED
22.01.2003 IN W.A. NO.2245 OF 2002.
- EXT.P4 - COPY OF THE JUDGMENT PASSED BY THIS COURT DATED
04.11.2004 IN W.A. NO.1927 OF 2004.
- EXT.P5 - COPY OF G.O.(MS) NO.298/2000/G.EDN. DATED 25.08.2000.
- EXT.P6 SERIES - COPIES OF M.SC. MARKLISTS AND DEGREE CERTIFICATES OF
PETITIONERS 1 AND 2.
- EXT.P7 SERIES- COPIES OF B.ED. DEGREE CERTIFICATES OF PETITIONERS 1
AND 2.
- EXT.P8 - COPY OF THE ORDER ISSUED BY 1ST RESPONDENT NO.28917/
T2/2005/G.EDN. DATED 22.07.2005.
- EXT.P9 SERIES- COPIES OF SET CERTIFICATES OF PETITIONERS 1 AND 2
DATED 21.12.2002 ISSUED BY GOVERNMENT OF KERALA.
- EXT.P10 - COPY OF THE G.O.(MS) NO.199/2003 DATED 24.07.2003.
- EXT.P11 - COPY OF THE G.O.(MS) NO.191/2007 DATED 07.05.2007.
- EXT.P12 - COPY OF THE G.O.(MS) NO.351/2004 DATED 20.11.2004.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.23381 of 2005-H

Dated this the 2nd day of December, 2015.

JUDGMENT

The petitioners are Higher Secondary School Teachers (Junior), Chemistry and Physics, respectively and were appointed on 01.07.2003 and 01.01.2004 in the 3rd respondent School as also granted due approval. The petitioners' claim in the aforesaid writ petition is that, they ought to have been approved retrospectively with effect from 15.07.2001, when the vacancy arose in the School. The petitioners were LPSAs, who are promoted as HSST Juniors and the contention raised is that they were entitled to be promoted when the vacancy arose itself. The learned counsel for the petitioners also would urge that the Management had not made such promotion only for the reason that the Manager was under a mistaken impression that no promotion could be

made, since there was a stay by the Supreme Court. The interim order was only to the effect that promotions alone should be made. The judgment of the Hon'ble Supreme Court was on 14.11.2001 and even before or after there was no express ban of promotions. The Hon'ble Supreme Court by the final judgment had merely granted time of three months to frame the Rules. The appointments made in the said periods were also cleared by Exts.P10 & P11 orders of the Government.

2. Be that as it may, the petitioners' contention is that when the vacancy arose, the LPSAs, who were eligible to be promoted, ought to have been promoted and in such circumstances, they would have been entitled to approval and salary in the higher post from the date on which the vacancy arose. The fact remains that no such appointment was made by the Manager and the petitioners also did not challenge the denial of promotion before any authority; neither the educational authority nor before this Court. The petitioners, after their appointment as HSST (Junior) respectively in 2003

and 2004, raised the claim for retrospective appointment and approval in this writ petition of 2015. The same cannot be countenanced. In such circumstances, on facts, the petitioners are not entitled to be granted any reliefs.

The writ petition would stand dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

//True Copy//

P.A. to Judge.

sp/09/12/15