

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No.24928 of 2005 (P)

PETITIONER(S):-

K.P. THANKAMMA,
HEADMISTRESS, ANDALUR J.B.SCHOOL, P.O.PALAYAD,
THALASSERY.

BY ADV. SRI.P.T.ANTONY.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.
3. THE ASSISTANT EDUCATIONAL OFFICER,
THALASSERY.

R1 TO R3 BY GOVERNMENT PLEADER SRI.S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.24928 OF 2005-P

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 TRUE COPY OF THE GOVT. ORDER DATED 23.02.2005.

RESPONDENT'S EXHIBITS:-

NIL.

vku/

[true copy]

K. Vinod Chandran, J

W.P.(C).No.24928 of 2005-P

Dated this the 30th day of October, 2015

JUDGMENT

The petitioner in the above writ petition is concerned with her service from 10.05.1980 when she attained majority. The petitioner was granted regular pay and service benefits only from 01.06.1981 when she completed the in-service course. The petitioner was in fact appointed as an Assistant Primary School Teacher on 17.07.1979. She continued so till her attaining majority and then appeared in the in-service course and re-joined duty on 01.06.1981. The learned counsel for the petitioner would contend that the petitioner had taken the T.C.H. from Karnataka and the denial as per Exhibit P1 is not correct.

2. The Rule applicable to the petitioner is Rule 5(3) of Chapter XXXI of the Kerala Education Rules, 1959, which is extracted hereunder:

“5(3). The appointment of all persons possessing T.C.H. issued by the Karnataka Secondary Education Examination Board, Bangalore made in Private Primary Schools till 31-3-1980 shall be approved as under

qualified. They shall be treated as fully qualified on successful completion of the in-service course conducted by the Director, State Institute of Education, Trivandrum”.

3. The petitioner contends that based on the above rule, only persons who are appointed till 31.03.1980 in private primary schools shall be approved as under qualified. Though the petitioner's appointment was on 17.07.1979, the petitioner attained majority only on 10.05.1980. The petitioner was deputed for training on 14.11.1980. Hence, the petitioner's appointment from 14.11.1980 has to be approved, since the period of training undergone by the teachers is reckoned for the grant of increment and fixation of pay as per G.O.(MS). No.103/74/G.Edn. dated 01.06.1974.

4. Herein, what assumes significance is that the petitioner was not a qualified teacher. The petitioner's case is regulated by G.O.(MS) No.153/79/G.Edn. dated 19.09.1979. The relevant extract of the said Government Order is as hereunder:

“Government also wish to make it clear that Mysore T.C.H. will not be considered as recognised qualification and the appointment of Mysore T.C.H. holders appointed after the close of the academic year 1978-79 will on no account be approved even as under qualified. In keeping

with these orders Government also direct that no Mysore T.C.H. holders who have not secured employment so far need be admitted to the second year of the T.T.C.Course or the in-service course as the case may be”.

The petitioner's appointment was on 17.07.1979, after the academic year 1978-1979. Hence the petitioner, who is admittedly a Mysore T.C.H. holder, cannot be approved even as an under qualified teacher prior to the completion of training. The petitioner was deputed for training on 14.11.1980 and joined in the school only on 01.06.1981.

5. The petitioner having acquired a T.C.H. qualification from Karnataka prior to 31.03.1980, she is under qualified and could be treated as fully qualified only on successful completion of the in-service course. After such successful completion of in-service course, the petitioner was regularised with effect from 01.06.1981. Hence, the writ petition is found to be devoid of merit and the same is dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]