

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 27541 of 2004 (D)

PETITIONER(S):

**S.LALITHAKUMARI, H.S.A.(HINDI),
NAIR SAMAJAM HIGH SCHOOL FOR GIRLS, MANNAR
[CORRECTED AS PER ORDER IN I.A NO.7975/06 DTD.16.06.06]**

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL
EDUCATION, SECRETARIAT, TRIVANDRUM.**
- 2. THE ACCOUNTANT GENERAL (A &E), KERALA &
LAKSHADWEEP, ACCOUNTANT GENERAL'S OFFICE, TRIVANDRUM.**
- 3. THE DY.DIRECTOR OF EDUCATION,
ALLEPPEY.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
MAVELIKKARA.**

R,R3 BY ADV. GOVERNMENT PLEADER T.R RAJESH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 27541 of 2004 (D)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1 COPY OF G.O(P) 57/91 (89) FIN DTD. 18.1.91
EXT.P2 COPY OF G.O(P) 347/2000 GL.EDN. DTD.19.10.2000
EXT.P3 COPY OF G.O 938/01 FIN. DT. 31.7.01.
EXT.P4 COPY OF THE OBJECTON DT.7.8.04
EXT.P5 COPY OF THE JUDGMENT IN W.P.(C) 6506 OF 2004 DTD.15.7.04.
EXT.P6 COPY OF THE PROCEEDINGS DATED 10.03.05.

RESPONDENTS EXHIBITS: **NIL**

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.27541 of 2004 - D

=====

Dated this the 28th day of September, 2015

J U D G M E N T

The petitioner joined as a Lower Grade Hindi teacher on 04.01.1997 and was subsequently promoted as High School Assistant on 05.06.1995. The petitioner was granted 20 years higher grade and pay was fixed on 01.09.1997. Thereafter, the petitioner was also given 23 years Selection Grade w.e.f. 01.09.2000 in the scale of 5250 - 8150 .

2. However later on by Ext.P4 based on G.O(P) NO. 347/2000/GE dated 19.10.2000, the petitioner's higher grade was sought to be withdrawn and the petitioner was directed to refund the amounts paid. In Ext.P5 judgment of this Court, it is noticed that a Division Bench in **Krishna Panicker v. State of Kerala [1993 (2) KLT 1058]** set aside the Government Order dated 19.10.2000 being Ext.P2.

3. In any event, the learned Counsel appearing for the petitioner has handed over G.O(P)296/2000/Fin dated 14.07.2006, wherein with respect to persons who were appointed/ promoted prior to 01.03.1997 as H.S.A, following stipulations were made in paragraph 3 (i) and (ii), which are extracted hereunder:

3. Government have examined the above facts in detail and are pleased to issue the following orders relating to the higher grades admissible to High School Assistants who were appointed/promoted from the category of Primary Teachers with more than 10 years service in the primary section -

(i) Primary School Teachers including language Teachers in the primary section on being appointed/promoted prior to 1-3-1997 as H.S.A Gr.II after having put in more than 10 years in the primary section will be eligible for H.S.A Gr.I on completion of 20 years total service and H.S.A Senior Grade on completion of 28 years total service w.e.f 1.11.1998.

(ii) The above category will be eligible for P.D Teacher's Selection Grade scale as personal scale on completion of total 23 years service w.e.f 1.11.1998.

4. In such circumstance, the petitioner's fixation is

proper as has been held by this Court in the Full Bench decision as also clarified by the Government in the subsequent Government Order of 2006, which came up after the filing of the writ petition. Ext.P4 would stand set aside. The petitioner is said to have retired in 2005 and any consequential benefits due to the petitioner by virtue of this judgment definitely would have to be computed and paid to the petitioner within a reasonable time.

The writ petition would stand allowed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A To Judge.