

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 14764 of 2015 (U)

PETITIONER(S) :

SATHI K.,
HIGH SCHOOL ASSISTANT (MALAYALAM),
CHEMNAD JAMA-ATH HIGHER SECONDARY SCHOOL,
CHEMNAD P.O., KASARAGOD DISTRICT-671 317.

BY ADVS.SRI.MURALI PALLATH
SRI.MAHESH V RAMAKRISHNAN
SRI.JAPA BALAN OLIVER.

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVT.,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT (ANNEX),
THIRUVANANTHAPURAM, PIN-695001.
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY P.O., THIRUVANANTHAPURAM, PIN-695 001.
3. THE DEPUTY DIRECTOR OF EDUCATION,
KASARAGOD, CIVIL STATION, KASARAGOD DISTRICT,
PIN-671 121.
4. THE DISTRICT EDUCATIONAL OFFICER,
KASARAGOD, KASARAGOD DISTRICT, PIN-671 121.
5. THE MANAGER,
CHEMNAD JAMA-ATH HIGHER SECONDARY SCHOOL
CHEMNAD P.O., KASARAGOD DISTRICT, PIN-671 317.

BY GOVERNMENT PLEADER SMT. M.J.RAJASREE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 : TRUE COPY OF THE APPOINTMENT ORDER DT.24-10-2001 ISSUED BY R5.

EXT. P2 : TRUE COPY OF THE ORDER NO.D.DIS B1-4077/01 DT.5-11-2001.

EXT. P3 : TRUE COPY OF THE ORDER NO.B1-6408/01/K/DIS DT.3-7-2002 ISSUED BY R4.

EXT. P4 : TRUE COPY OF THE ORDER NO.K.DIS 11653/02 (B1) DT.23-1-2003 ISSUED BY R3.

EXT. P5 : TRUE COPY OF THE GOVT. LETTER NO.40958/E3/06/G EDN. DT.30-3-2007.

EXT. P6 : TRUE COPY OF THE ORDER NO.B1-1359/06 DT.23-4-2007.

EXT. P7 : TRUE COPY OF THE ORDER NO.B1-12702/2007/K.DIS. DT.4-9-2007.

EXT. P8 : TRUE COPY OF THE GO(P) NO.46/2006/G.EDN. DT.1-2-2006.

EXT. P9 : TRUE COPY OF THE GO(RT)NO.2091/06/G EDN. DT.23-5-2006.

EXT. P10 : TRUE COPY OF THE GO(RT) NO.1643/2012/G.EDN. DT.3-4-2012.

EXT. P11 : TRUE COPY OF THE REPRESENTATION DT.4-12-2012 SUBMITTED BY R5.

EXT. P12 : TRUE COPY OF THE GOVT.LETTER NO.51928/E3/2008/G.EDN. DT.9-3-2015.

EXT. P13 : TRUE COPY OF THE REPRESENTATION DT.4-5-2015 SUBMITTED BY THE APPLICANT BENEFIT OF R1 WITHOUT ENCLOSURES.

EXT. P14 : TRUE COPY OF THE 2011(3)KHC 650.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 14764 of 2015

Dated this the 3rd day of June, 2015

JUDGMENT

The petitioner was appointed as High School Assistant (Malayalam) in Chemnad Jama-ath Higher Secondary School in Kasargod District, with effect from 24.10.2001. When the appointment of the petitioner was forwarded to the Educational Authorities for approval, the petitioner's appointment as HSA (Mal) was approved only with effect from 01.02.2006. The facts in the writ petition would disclose that the Manager of the school, the 5th respondent herein, had taken up the matter in revision before the 1st respondent, and by Ext.P12 order, the 1st respondent rejected the revision petition preferred by the Manager. Ext.P12 is dated 09.03.2015 and is seen passed in a revision petition filed by the Manager on 28.11.2007. It is seen that thereafter, the petitioner also filed a petition before the 1st respondent styled as a review petition, taking note of Ext.P12 order, that was passed by the 1st respondent in the revision petition filed by the Manager. In the writ petition, what is sought, is a direction to the 1st respondent to consider and pass orders on Ext.P13, in the light of the decision of this court in **Nadeera and another V. State of Kerala**, [2011 (3) KLT 790].

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondent.

3. When the matter came up for admission on 21.05.2015, I had asked the learned Government Pleader to get instructions as to whether Ext.P12 order of the 1st respondent was passed after hearing the 5th respondent Manager, who was the petitioner before the 1st respondent in the revision application. When the matter was taken up today, it is submitted by the learned Government Pleader on instructions that, before the passing Ext.P12 order, the revision petitioner was not heard. Taking note of the submission of the learned Government pleader, I am of the view that Ext.P12 order of the 1st respondent cannot be legally sustained, inasmuch as it has been passed in violation of the rules of natural justice and without affording the revision petitioner an opportunity of being heard. Resultantly, I quash Ext.P12 order of the 1st respondent and direct the 1st respondent to consider the revision petition dated 28.11.2007 filed by the manager, together with Ext.P13 petition filed by the petitioner herein, and pass orders on the same, after hearing the petitioner and the 5th respondent Manager, within a period of 2 months from the date of receipt of a copy of

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this judgment. While passing orders as directed, the 1st respondent shall take note of the judgment of this court in **Nadeera and another Vs. State of Kerala**, referred to above.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das