

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 15805 OF 2014 (A)

PETITIONER(S):

**NIBIL E., HIGHER SECONDARY SCHOOL TEACHER
(JUNIOR), CHEMISTRY, VAYLIL MOIY HAJI MEMORIAL
HIGHER SECONDARY SCHOOL, ANAYAMKUNNU,
KOZHIKODE**

**BY ADVS. SRI.B.S. SWATHI KUMAR
REMYA MURALI
RAJESH A.K
VENKATESH GOPI**

RESPONDENT(S):

- 1. THE DIRECTOR OF HIGHER SECONDARY EDUCATION
HOUSING BOARD BUILDING
SANTHI NAGAR
THIRUVANANTHAPURAM – 695 001.**
- 2. THE REGIONAL DEPUTY DIRECTOR
HIGHER SECONDARY EDUCATION
KOZHIKODE – 673 001**
- 3. THE MANAGER, VAYILIL MOIY HAJI MEMORIAL HIGHER
SECONDARY SCHOOL, ANAYAMKUNNU
KOZHIKODE – 673 317**

R BY GOVERNMENT PLEADER SRI. P.S. SAJEEV

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 15805 OF 2014 (A)

APPENDIX

PETITIONERS EXHIBITS:

**EXT.P1 COPY OF THE ORDER NO.A5/2346/2013/K.DIS DATED 12.9.2013
 OF THE 2ND RESPONDENT.**

**EXT.P2 COPY OF THE JUDGMENT IN W.P.(C) NO.5709/2007 DATED
 22.5.12.**

EXT.P3 COPY OF THE ORDER IN W.P.(C) NO.7498/2014 DATED 27.3.14.

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.15805 of 2014- A

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Dated this the 10th day of September, 2015

J U D G M E N T

The issue raised in the above writ petition is with respect to the date of approval of a Higher Secondary School Teacher and the disbursement of vacation salary. The Government had refused sanction of vacation salary on the ground that the petitioner was appointed at the fag end of the academic year since 8 months service of the petitioner was approved from the next academic year only. The same was on the ground that the appointment in the earlier academic year for which the vacation salary was claimed did not comply with Rule 49 of Chapter XIVA of the Kerala Education Rules, which prescribed that only if 8 months service is available, there would be an entitlement for vacation salary.

2. In the present case, the petitioner had been

appointed to a regular vacancy as a Higher Secondary School teacher in the District w.e.f 18.02.2013 and was continuously working thereafter. The petitioner's appointment was approved only w.e.f 03.06.2013, the next academic year. Hence, the petitioner was found to be disentitled to the vacation salary. W.P.(C) No.5709 of 2007 dated 22.05.2012 produced at Ext.P2 covers the issue insofar as this Court having found that Rule 49 of Chapter XIVA of the K.E.R does not apply to Higher Secondary School Teachers.

3. Chapter XXXII does not contain any restriction with respect to appointment in an academic year. The facts in Ext.P2 are identical to the facts herein. The petitioner is further prejudiced by the fact that the petitioner's appointment if approved only from 03.06.2013, would be liable to make contributions towards the pension. That issue is further covered by the judgment of this Court in W.P.(C) No.16613 of 2014 and connected matters dated 01.06.2015 .

4. In such circumstance, following the aforecited judgments, the above writ petition is allowed, directing the petitioner's appointment to be approved from 18.02.2013 and directing disbursement of vacation salary for the year 2012-13 as also declaring that the petitioner will not be liable to subscribe to Contributory Pension Scheme, introduced w.e.f 01.04.2013.

The writ petition would stand allowed. No costs.

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

SB

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P.A to Judge.