

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

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

WP(C).No. 16197 of 2014 (Y)

PETITIONER:

DR. HARIKRISHNAN P
WORKING AS HSA IN MALAYALAM, SVGVHSS, KIDANGANNUR
NALKALIKKAL.P.O., ARANMULA, RESIDING AT PADMALAYAM
KOTTA.P.O., KARAKKAD, PATHANAMTHITTA DISTRICT-689 504.

BY ADVS. SRI. T. P. DAYANANTHAN
SRI. A. V. RAMAKRISHNA PANICKER

RESPONDENTS:

1. MANAGER
SVG V H S S KIDANGANUR, NALKALAKKAL.P.O.
PATHANAMTHITTA-689 533.
2. REGIONAL DY.DIRECTOR OF HIGHER SECONDARY EDUCATION
CORPORATION BUILDING, THIRUVANANTHAPURAM.695 036.
3. DIRECTOR OF HIGHER SECONDARY EDUCATION
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.695 001.

Addl.4. SMT. ARCHANA KRISHNAN,
WORKING AS HSST JUNIOR IN MALAYALAM
S.V.G.V.H.S.S. NALKALIKAL, KIDANGANUR PO.
PATHANAMTHITTA - 689 533. ADDL. (R4 IMPEADED AS PER ORDER DATED
10.02.2015 IN IA 1782/15.)

R1 BY ADV. SRI. S. SUBHASH CHAND
R4 BY ADV. SRI. R. GIREESH VARMA
R2 & R3 BY GOVERNMENT PLEADER SRI. R. PADMARAJ

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

APPENDIX

PETITIONER'S' EXHIBITS:

P1- TRUE COPY OF THE ORDER NO.B4-11335/96/KDIS DATED 17.12.1996.

P1(A)- TRUE COPY OF THE PROCEEDINGS NO.B4.7247/98/K.DIS DATED 10.11.1999.

P2 SERIES- TRUE COPY OF THE CERTIFICATES.

P3- TRUE COPY OF ELEVANT PORTION OF THE SPECIAL RULES OF AIDED HIGHER SECONDARY SCHOOLS PUBLISHED VIDE G.O.(P) 331/2001/G.EDN. DATED 09.11.2001.

P4- TRUE COPY OF REPRESENTATION DATED 26.03.2014 SUBMITTED TO THE MANAGER FOR BY TRANSFER APPOINTMENT.

P5- TRUE COPY OF REPRESENTATION DATED 26.05.2014 TO THE SECOND RESPONDENT REGIONAL DEPUTY DIRECTOR HSE.

P6- TRUE COPY OF THE NOTIFICATION DATED 19.06.2014 DAILY NEWS PAPER.

P7- TRUE COPY OF THE LIST APPROVAL AND AVAILABLE AS SENIORITY OF THE TEACHERS IN THE SCHOOL, ISSUED FROM THE SCHOOL, UNDER RI ACT ON 25.09.2014.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C). No.16197 of 2014

Dated this the 30th day of October, 2015

JUDGMENT

This writ petition is filed by the petitioner seeking to quash Ext.P6 to the extent it deprive the legitimate claim of the petitioner for appointment by transfer as HSST in Malayalam in the 25% quota provided in Ext.P3 Special Rules to the High School Assistant according to qualification and seniority and for other related reliefs.

2. Brief facts for the disposal of the writ petition are as follows:-

3. Petitioner was appointed as UPSA (Malayalam) in the 1st respondent school. Later, petitioner was promoted as HSA (Malayalam) on 24.08.1998 and while continuing as HSA on 01.04.2014 a retirement vacancy arose in the post of HSST in Malayalam. In anticipation of the said vacancy, petitioner submitted Exts.P4 and P5 representations before the 1st and 2nd respondents respectively, claiming appointment to the said post.

4. It is the contention of the petitioner that, while the

applications were so pending, Ext.P6 notification was issued by the 1st respondent downgrading the post of HSST to HSST – Junior (Malayalam). It is thus aggrieved petitioner has filed this writ petition.

5. Heard learned counsel for the petitioner, learned counsel for the 1st respondent, learned Senior Government Pleader and learned counsel for the additional 4th respondent.

6. The thrust of the contention put forth by the petitioner is that the down gradation of the post by the 1st respondent is without getting sufficient approval from the competent authority under law and therefore Ext.P6 notification and consequential proceedings cannot be sustained under law. Learned counsel for the 1st respondent Sri. S. Subash Chand contended that during the pendency of this writ petition additional 4th respondent was appointed as HSST – Junior (Malayalam) after securing an interim order from this Court that appointment if any made will be subject to the result of final disposal of this writ petition. Since the grievances raised by the petitioner are pending adjudication before the 2nd respondent who is the competent authority, it is only appropriate that a direction is issued to the 2nd respondent to consider the representation filed by the

petitioner, voicing the grievances akin to the issues raised in this writ petition. Therefore a direction can be issued to the 2nd respondent to take a decision, after providing opportunity to the petitioner, additional 4th respondent and all others concerned. However learned counsel for the petitioner contended that there are Government Orders to substantiate the contentions raised by the petitioner in the writ petition. However, in my view that is a subject matter to be considered by the 2nd respondent. Therefore, there will be a direction to the 2nd respondent to take into account all the relevant Government Orders and take a decision on Ext.P5 representation and any additional representation submitted by the petitioner along with attendant documents. Learned Government Pleader submits that the whole exercise can be completed within a period of two months from the date of receipt of additional representation from the petitioner.

7. Therefore, there will be direction to the 2nd respondent to consider Ext.P5 representation pending before the 2nd respondent along with additional representation proposed to be submitted by the petitioner, by taking into account all requisite Government Orders guiding the field, and a decision shall be

taken within two months from the date of receipt of the additional representation from the petitioner after hearing all affected parties. The 2nd respondent shall take a decision in accordance with law and as per the directions above, untrammelled by any observations made in this writ petition.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A to Judge

smv
30.10.2015