

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 16043 of 2015 (E)

PETITIONER(S):

**PUSHPAVATHY DEVI K. AGED 55 YEARS
H.S.A(PS) BSM, MADATHIL HIGH SCHOOL, THAZHAVA NORTH
KUTHIRAPANDHI PO, KOLLAM 690 523**

**BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY, EDUCATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM 695001**
- 2. THE DISTRICT EDUCATIONAL OFFICER, AGED 32767 YEARS
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER, KOLLAM**
- 3. THE MANAGER
BJMS MADATHIL HIGH SCHOOL, THAZHAVA NORTH
KUTHIRAPANDHI PO, KOLLAM 690523**
- 4. T.S. SABITHA, H.S.A(MATHS)
B.J., M.S. MADATHIL HIGH SCHOOL, THAZHAVA NORTH
KUTHIRAPANDHI PO, KOLLAM 690523**

**R4 BY ADV. SRI.K.P.CHANDRASEKHAR
R3 BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
R3 BY ADV. SRI.LUIZ GODWIN D'COUTH
R BY GOVERNMENT PLEADER, SMT. LOUSY A.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE APPOINTMENT ORDER DATED 15.7.1986 ISSUED BY THE 3RD RESPONDENT AND APPROVED BY THE 2ND RESPONDENT**
- EXHIBIT P2: TRUE COPY OF THE APPOINTING ORDER DATED 2.6.1986 ISSUED BY THE 3RD RESPONDENT AND APPROVED WITH EFFECT FROM 15.7.1986 BY THE 2ND RESPONDENT**
- EXHIBIT P3: TRUE COPY OF THE SENIORITY LIST FOR THE YEAR JANUARY 2006**
- EXHIBIT P4: TRUE COPY OF OBJECTION PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16.5.2015**
- EXHIBIT P5: TRUE COPY OF THE ORDER DATED 23.5.2015 PASSED BY THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

- EXT.R2(a) TRUE COPY OF THE REVISION PETITION DATED 25.05.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**
- EXT.R2(b) TRUE COPY OF THE REVISION PETITION DATED 17.02.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**
- EXT.R2(c) TRUE COPY OF THE APPOINTMENT ORDER DATED 19.11.85 APPOINTING THE 4TH RESPONDENT AS H S A (MATHS)**
- EXT.R2(d) TRUE COPY OF THE APPOINTMENT ORDER DATED 02.06.1986 APPOINTING THE 4TH RESPONDENT AS H S A (MATHS)**
- EXT.R2(e) TRUE COPY OF THE APPOINTMENT ORDER DATED 15.07.1986 APPOINTING THE PETITIONER AS H S A (MATHS).**

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 16043 of 2015

Dated this the 13th day of July, 2015

JUDGMENT

The petitioner approached this Court through the present writ petition, aggrieved by Ext.P5 order of the 2nd respondent, whereby, according to the petitioner, the settled seniority list in the school was upset by the 2nd respondent, while holding that the 4th respondent was senior to the petitioner in the category of High School Assistant. The issue becomes relevant for the purposes of appointment to the post of Head Mistress in the school in question. When the matter came up for admission on 29.05.2015, taking note of submission of counsel for the petitioner that the petitioner and the 4th respondent were both regularly appointed as HSA on the same date, and the date of continuous service reckoned for seniority is the same for both of them, but the date of first appointment of the petitioner is earlier to that of the 4th respondent, this Court granted a stay of operation, and all further proceedings pursuant to, Ext.P5 for a period of one month.

2. The 3rd respondent has filed a counter affidavit in the matter, a perusal of which would indicate that, challenging Ext.P5 order of the 2nd respondent, the petitioner has filed a revision petition before the 1st respondent and the same is pending

consideration before the said authority. Under the said circumstances, I am of the view that the petitioner, having chosen to approach the revision authority by Ext.R3(a) revision petition, cannot maintain this writ petition impugning Ext.P5 order on merits, since he has chosen to pursue an alternate remedy. Taking note of Ext.R3(a) revision petition filed by the petitioner before the 1st respondent, therefore, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.R3(a) revision petition preferred by the petitioner before the 1st respondent, after hearing the petitioner, the 3rd respondent as well as the 4th respondent, within a period of one month from the date of receipt of a copy of this judgment. While passing orders in the revision petition as directed, the 1st respondent shall also take note of Ext.R3(b) objections filed by the 4th respondent. I make it clear that, till such time as orders are passed by the 1st respondent as directed and communicated to the petitioner, the interim order of stay of operation and all further proceedings pursuant to Ext.P5 order, that was granted by this Court, shall remain in force.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE