

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 17006 of 2014 (A)

PETITIONER :

**K.D.NEENA,
HEADMISTRESS, S.M.U.P. SCHOOL, VATANAPPALLY,
THRISSUR DISTRICT.**

BY ADV. SRI.K.B.GANGESH

RESPONDENT(S):

- 1. STATE OF KERALA, REP. BY ITS SECRETARY,
DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. ASSISTANT EDUCATIONAL OFFICER,
VALAPPAD, PIN: 680 568.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR, PIN: 680 003.**

R1 TO R3 BY SR GOVERNMENT PLEADER SMT. SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, ALONG WITH WPC.NO. 17030/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

WP(C).No. 17006 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER WITH
ENDORSEMENT OF APPROVAL OF THE 2ND RESPONDENT DATED
6/7/2009.
- EXT.P2:** TRUE COPY OF THE OPTION EXERCISED BY THE PETITIONER DATED
14/7/2009.
- EXT.P3:** TRUE COPY OF THE AUDIT OBJECTION DATED 23/01/2013 ISSUED BY
THE 3RD RESPONDENT.
- EXT.P4:** TRUE COPY OF THE REPRESENTATION PREFERRED BY THE
PETITIONER TO THE 1ST RESPONDENT DATED 25/11/2013.
- EXT.P5:** TRUE COPY OF THE GO(P) NO.246/2012/G.EDN DATED 28/07/2012.
- EXT.P6:** TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
DATED 15/02/2014 REJECTING EXT.P4 REPRESENTATION OF THE
PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.17006 & 17030 of 2014

Dated this the 12th day of March, 2015

JUDGMENT

These writ petitions are filed challenging audit objection in respect of the option exercised for fixation of pay in the Headmaster's scale. These petitioners exercised option for fixation of pay in Headmaster's scale within one month from the date of approval of appointment as Headmistress. Audit objection has been raised pointing out that the petitioners did not exercise option within one month from the date of their appointment. The petitioners rely on the Government Order No.246/2012/G.Edn dated 28.7.2012, wherein it is stated that in the matter of option being exercised by the Headmaster of an aided school, one month has to be reckoned from the date of approval and taking into the fact that the process of approval for promotion takes time.

2. In the aforesaid Government Order dated 28.7.2012, it is mentioned that clarification would come into effect only from the date of order. I am of the view, when statutory rule is clarified, operation of such clarification cannot be restricted prospectively. Thus, the petitioners are entitled to succeed.

These writ petitions are allowed and the impugned orders are set aside.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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