

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

W.P.(C).No.17647 of 2014 (E)

PETITIONER(S):-

JEESON THOMAS,
TEACHER, PHYSICAL EDUCATION, BETHANY ASRAM HIGH SCHOOL,
CHERUKULANJI, RANNY, PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.DINNY THOMAS
SRI.JAISHANKAR V.NAIR
SRI.ALBERT V.JOHN.

RESPONDENT(S):-

1. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM - 695001.
2. DEPUTY DIRECTOR OF EDUCATION,
PATHANAMTHITTA, THIRUVALLA - 690582.
3. THE DISTRICT EDUCATION OFFICER,
PATHANAMTHITTA - 689645.
4. THE MANAGER,
BETHANY ASRAM HIGH SCHOOL, CHERUKULANJI, RANNY,
PATHANAMTHITTA DISTRICT - 689672

R1 TO R3 BY GOVERNMENT PLEADER SMT.A.LOWSY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE
4TH RESPONDENT.
- EXHIBIT P2 TRUE COPY OF THE G.O(MS) 123/91 GEN. EDN
DATED 05-08-1991.
- EXHIBIT P3 TRUE COPY OF THE G.O(RT) 1238/2007/G.EDN
DATED 19-03-2007.
- EXHIBIT P4 TRUE COPY OF THE G.O(MS) 145/80/EDN DATED 11-09-1980.
- EXHIBIT P5 TRUE COPY OF THE G.O(P) NO 46/2006/GEN.EDN
DATED 01-02-2006.
- EXHIBIT P6 TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT
DATED 22-10-2009.
- EXHIBIT P7 TRUE COPY OF THE APPOINTMENT ORDER DATED 12-12-2012.
- EXHIBIT P8 TRUE COPY OF THE SAID ORDER PASSED BY THE
3RD RESPONDENT DATED 10-06-2013.
- EXHIBIT P9 TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
DATED 04-01-2014.
- EXHIBIT P10 TRUE COPY OF THE REVISION PETITIONS FILED BY THE
PETITIONER DATED 27-01-2014.
- EXHIBIT P11 TRUE COPY OF THE REVISION PETITIONS FILED BY THE
4TH RESPONDENT DATED 27-01-2014.
- EXHIBIT P12 TRUE COPY OF THE G.O(P) NO 199/2011/G.EDN
DATED 01-10-2011.
- EXHIBIT P13 TRUE COPY OF THE G.O(P) NO 116/2012/G.EDN
DATED 12-04-2012.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.17647 of 2014-E

Dated this the 04th day of November, 2015

JUDGMENT

The petitioner was appointed as a Physical Education Teacher [a Specialist Teacher as per the Kerala Education Rules, 1959 (for brevity “KER”)], in a leave vacancy between 16.11.2004 and 07.09.2009, as per Exhibit P1. The approval, however, was declined and an appeal filed also was unsuccessful, as was indicated in Exhibit P2. Manager filed a revision before the Director of Public Instruction, which also was rejected by Exhibit P4. A second revision filed by the Manager before the Government also suffered the same fate, by Exhibit P7. The aforesaid orders were challenged by the petitioner in W.P.(C).No.25739 of 2007, which was disposed of by this Court, by judgment of even date, setting aside Exhibit P7 order and directing consideration of the revision afresh in light of the Division Bench decision of this Court in ***State of Kerala v. Nadeera [2013 (2) KLT 88]***.

2. The present writ petition is with respect to a subsequent appointment, in the year 2012, to the very same vacancy in which the petitioner was appointed earlier. The

incumbent who had proceeded on leave re-joined duty and then voluntarily retired from service. It is to this vacancy that the petitioner was appointed.

3. The rejection of the approval was for the reason that the post of Physical Education Teacher was not sanctioned and that the vacancy was not established. The same has to be looked into with reference to the staff fixation order of the concerned year. The petitioner had unsuccessfully challenged the rejection of approval in appeal and now a revision is pending at Exhibit P10 before the Director of Public Instruction. There is also a revision, evidenced at Exhibit P11, filed by the Manager; which is also pending. In such circumstances, it is directed that the DPI shall take up both the revisions together and the same shall be considered after issuing notice to the affected parties and orders passed within a period of four months from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of as above. Parties are left to suffer their respective costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]