

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 20320 of 2013 (L)

PETITIONER(S) :

P.SHYJI, AGED 33 YEARS,
W/O.JAYADEVAN, FULL-TIME SANSKRIT TEACHER,
KOYYODE MADRASSA UP SCHOOL, P.O.KOYYODE,
KANNUR DISTRICT-670 621.

BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENT(S) :

1. THE STATE OF KERALA
REPRESENTD BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
JAGATHY, THIRUVANANTHAPURAM-695 014.

3. THE ASSISTANT EDUCATIONAL OFFICER,
KANNUR NORTH-670 003, KANNUR DISTRICT.

4. THE MANAGER,
KOYYODE MADRASSA UP SCHOOL, P.O.KOYYODE
KANNUR DISTRICT-670 621.

R1-R3 BY ADV. GOVERNMENT PLEADER SMT.SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 20320 of 2013 (L)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1.COPY OF THE G.O.(RT)NO.3460/85/G.EDN. DATED 17/9/1985 OF
THE GOVERNMENT
EXHIBIT P2.COPY OF THE G.O.(MS)NO.371/2000/G.EDN. DATED 13/1/2000 OF
THE GOVERNMENT
EXHIBIT P3.COPY OF THE G.O.(RT)NO.1298/2001/G.EDN. DATED 30/3/2011 OF
THE GOVERNMENT
EXHIBIT P4.COPY OF THE G.O.(RT)NO.5320/2011/G.EDN. DATED 29/11/2011
OF THE GOVERNMENT
EXHIBIT P5.COPY OF THE G.O.(RT)NO.1128/2012/G.EDN. DATED 8/3/2012 OF
THE GOVERNMENT
EXHIBIT P6.COPY OF THE JUDGMENT IN WPC NO.25021/2004-D DATED
26/7/2004.
EXHIBIT P7.COPY OF THE STAFF FIXATION ORDER 1990-1991 DATED
20/6/1990.
EXHIBIT P8.COPY OF THE STAFF FIXATION ORDER 2008-2009 DATED
30/12/2008
EXHIBIT P9.COPY OF THE G.O.(RT)NO.5875/2011/G.EDN. DATED 30/12/2011
OF THE GOVERNMENT
EXHIBIT P10.COPY OF THE G.O.(RT)NO.531/2013/G.EDN. DATED 5/2/2013 OF
THE GOVERNMENT

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

P.S TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.20320 OF 2013

Dated this the 11th day of March, 2015

JUDGMENT

The petitioner was appointed as full-time Sanskrit Teacher on 5/6/2008 against the retirement vacancy. By the Government Order dated 3/11/2000 produced as Ext.P2, the Government clarified that the post created by virtue of Group C diversion cannot be treated as protected and that such full-time posts cannot be converted into part time posts. It is further mentioned in Ext.P2 order that Full time teachers having 15 periods of work by virtue of Group "C" diversion taken leave, the resultant vacancies can be filled up by Full Time teachers. Therefore, in the light of the above Government Order, the petitioner submits that he is entitled for approval as a full-time teacher with effect from the date of appointment. However, approval for the petitioner's appointment was declined by the authorities. Ext.P10 is the order passed by the Government in the review filed by the petitioner. One of the reasons stated for declining the approval is that the Government cancelled Ext.P2 as per the

Government Order G.O.(MS) 220/2010/G.Edn. dated 4/11/2010. The petitioner submits that since the appointment was in the year 2008, by virtue of the Government Order issued in the year 2010 approval for his appointment cannot be declined.

2. Admittedly, Ext.P2 was in force till it was cancelled in the year 2010. Ext.P2 clearly states that full time posts cannot be converted as part time posts. Therefore, I am of the view that as on the date of appointment, the petitioner was entitled to the benefit of Ext.P2 order which cannot be denied by virtue of the subsequent Government Order.

3. In view of the above facts and circumstances, the impugned orders are set aside. There shall be a direction to the 3rd respondent to approve the appointment of the petitioner as full-time Sanskrit Teacher from 5/6/2008. Needful shall be done within two months. Arrears of salary shall be disbursed to the petitioner within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/true copy/

PS to Jude.

