

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C) .No. 20522 of 2013 (M)

PETITIONER(S) :

T.V. USHA,
HIGH SCHOOL ASSISTANT, KARIMBIL HIGH SCHOOL
KUMBALAPPALLY, PERIYANGANAM P.O., (VIA) NEELESWAR
KASARAGOD DISTRICT, PIN - 671 314.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND
SMT.L.AMMU PILLAI.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
2. DEPUTY DIRECTOR OF EDUCATION,
CIVIL STATION, VIDYANAGAR P.O., KASARAGOD,
PIN - 671 123.
3. DISTRICT EDUCATIONAL OFFICER,
KANHANGAD, KASARAGOD DISTRICT, PIN - 671 315.
4. THE MANAGER,
KARIMBIL HIGH SCHOOL, KUMBALAPPALLY, PERIYANGANAM P.O.,
(VIA) NEELESWAR, KASARAGOD DISTRICT, PIN - 671 314.

R4 BY ADV. SRI.JAWAHAR JOSE
BY SENIOR GOVERNMENT PLEADER SRI.V.VIJULAL &
R4 BY ADV. SRI.P.K.SURESH KUMAR (SR.) .

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT-P1: TRUE COPY OF THE ORDER NO.3/2012 DATED 13.02.2012 OF THE 4TH RESPONDENT.
- EXHIBIT-P2: TRUE COPY OF LETTER DATED 15.02.2012 OF THE 4TH RESPONDENT.
- EXHIBIT-P3: TRUE COPY OF THE REPLY DATED 16.02.2012 SUBMITTED BY THE PETITIONER TO EXT.P2.
- EXHIBIT-P4: TRUE COPY OF THE ORDER NO.3/2012 DATED 04.03.2012 OF THE 4TH RESPONDENT.
- EXHIBIT-P5: TRUE COPY OF THE LETTER NO.B4-233/2012 DATED 09.07.2012 ALONG WITH THE ENQUIRY REPORT OF THE 3RD RESPONDENT.
- EXHIBIT-P6: TRUE COPY OF THE ORDER NO.3/2012 DATED 06.08.2012 OF THE 4TH RESPONDENT.
- EXHIBIT-P7: TRUE COPY OF THE DETAILED REPLY DATED 11.08.2012 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.
- EXHIBIT-P8: TRUE COPY OF THE ORDER NO.B1-348/2013 DATED 02.03.2013 OF THE 2ND RESPONDENT.
- EXHIBIT-P9: TRUE COPY OF THE GOVERNMENT LETTER NO.29934/A2/2013/G.EDN. DATED 27.05.2013.
- EXHIBIT-P10: TRUE COPY OF THE G.O.(RT) NO.3283/2013/G.EDN. DATED 05.08.2013.
- EXHIBIT-P11: TRUE COPY OF THE ORDER NO.3/2013 DATED 12.08.2013 OF THE 4TH RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

- EXHIBIT-R(4) (A) : TRUE COPY OF COMPLAINT DATED 15/07/2011 SUBMITTED BY THE STAFF MEMBERS OF THE SCHOOL TO THE 4TH RESPONDENT.
- EXHIBIT-R(4) (B) : TRUE COPY OF COMPLAINT DATED 18/07/2011 SUBMITTED BY THE PRESIDENT, PTA OF THE SCHOOL TO THE 4TH RESPONDENT.
- EXHIBIT-R(4) (C) : TRUE COPY OF COMPLAINT DATED 02/08/2011 SUBMITTED BY THE TEACHER VISHNU NAMBOOTHIRI TO THE 4TH RESPONDENT.

- EXHIBIT-R(4) (D) : TRUE COPY OF SHOW CAUSE NOTICE/CHARGE-MEMO DATED 24/08/2011 GIVEN BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXHIBIT-R(4) (E) : TRUE COPY OF REPLY DATED 01/09/2011 GIVEN BY THE PETITIONER TO EXHIBIT-R(4) (D) .
- EXHIBIT-R(4) (E) : TRUE COPY OF REPLY DATED 01/09/2011 GIVEN BY THE PETITIONER TO EXHIBIT-R(4) (D) .
- EXHIBIT-R(4) (F) : TRUE COPY OF MINUTES OF THE STAFF COUNCIL DATED 16/01/2012.
- EXHIBIT-R(4) (G) : TRUE COPY OF COMPLAINT DATED 10/02/2012 SUBMITTED BY THE PRESIDENT, PTA OF THE SCHOOL TO THE PETITIONER.
- EXHIBIT-R(4) (H) : TRUE COPY OF MATHRIBHUMI DAILY DATED 10/02/2012.
- EXHIBIT-R(4) (I) : TRUE COPY OF COMMUNICATION DATED 15/02/2012 SUBMITTED BY THE 4TH RESPONDENT TO THE 2ND RESPONDENT.
- EXHIBIT-R(4) (J) : TRUE COPY OF ORDER DATED 27/02/2012 ISSUED BY THE 2ND RESPONDENT, GIVING PERMISSION TO EXTEND THE SUSPENSION PERIOD OF THE PETITIONER.
- EXHIBIT-R(4) (K) : TRUE COPY OF ORDER DATED 22/02/2012 ISSUED BY THE 2ND RESPONDENT APPOINTING THE 3RD RESPONDENT AS THE ENQUIRY OFFICER.
- EXHIBIT-R(4) (L) : TRUE COPY OF PETITION DATED 23/08/2012 SUBMITTED BY THE 4TH RESPONDENT TO THE 2ND RESPONDENT SEEKING PERMISSION TO TAKE DISCIPLINARY ACTION AGAINST THE PETITIONER.
- EXHIBIT-R(4) (M) : TRUE COPY OF PROCEEDINGS DATED 12/08/2013 BY WHICH SMT. MARIAKUTTY ANTONY, SENIOR MOST has TOOK CHARGE AS HEADMASTER.
- EXHIBIT-R(4) (N) : TRUE COPY OF THE MINUTES OF THE PTA EXECUTIVE COMMITTEE MEETING HELD ON 31/10/2011.
- EXHIBIT-R(4) (O) : TRUE COPY OF PROCEEDINGS DATED 03/01/2012 BY WHICH THE PETITIONER WAS WARNED BY THE 4TH RESPONDENT.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

~~~~~

**W.P.(C).No.20522/2013**

~~~~~

Dated this the 31st Day of March, 2015

J U D G M E N T

The petitioner impugns the orders passed by the Manager as well as the Government in reverting the petitioner as HSA from the post of Headmistress consequent upon disciplinary proceedings.

2. The petitioner was promoted as Headmistress with effect from 01/04/2010. The Manager initiated disciplinary proceedings against the petitioner. She was also suspended from service. Ext.P5 is the enquiry report of the District Educational Officer.

3. Ext.P5 does not spells any specific charge as against the petitioner is proved. It appears that the District Educational Officer has conducted an administrative inquiry than an inquiry as contemplated under the disciplinary proceedings. In the enquiry report itself there are no proven charges against the

petitioner based on the allegations and evidence. It is to be noted that the petitioner has controverted all imputation of charges in support of her defence. The nature of the report would clearly indicate that the District Educational Officer has conducted only an administrative enquiry to find the ways and means for the smooth conduct of the school. However, based on the report, the Manager issued Ext.P6 proposal penalty. Petitioner also gave explanation to Ext.P6 by Ext.P7. Thereafter, it seems that the Manager has approached this Court with W.P.(C).No. 30291/2012 to conclude the proceedings to impose the punishment on the petitioner. By Ext.P8 order, the Deputy Director of Education refused to grant permission to the Manager for reverting the petitioner as HSA. It is also noted in Ext.P8 that the petitioners' conduct does not require punishment of any major penalty as proposed in Ext.P6. It is also stated therein that the proposed punishment is against the principles of natural justice and inhuman. Thereafter,

aggrieved by Ext.P8 order, the Manager approached the Government. Government allowed the revision petition of the Manager and ordered to revert the petitioner as HSA by Ext.P10 order. It is the above order and the consequential order of the Manager that are impugned before this Court.

4. Heard the learned counsel for the petitioner and the learned counsel for the Manager.

5. Ext.P5 as noted as above do not indicate any proven charges against the petitioner based on allegations and evidence. Therefore, as rightly pointed out by the learned counsel for the petitioner, the Manager cannot impose any punishment on the petitioner without any proven charges. Rule 75 of Chapter XIV of the Kerala Education Rules contemplates procedure for imposing major penalty. Rule 75 (8) specifically states that at the conclusion of the inquiry, the inquiring authority shall prepare a report of the inquiry, recording its findings on each of the charges together with the reasons therefor. Therefore,

W.P.(C).No.20522/2013

-:4:-

considering the nature of the quality of the order passed in Ext.P5, this Court is of the view that this is only an administrative report and not a report as contemplated under Rule 75(8). The punishment imposed on the petitioner is without any proven charges. In that view of the matter, the impugned orders are set aside. The petitioner shall be reinstated as Headmistress. She shall also be entitled for any consequential benefits ignoring Exts.P10 and P11.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ms