

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).NO. 18189 OF 2015 (W)

PETITIONER(S) / PETITIONER:

JAYA R.NARAYANAN, AGED 33 YEARS
D/O.S.NARAYANA PILLAI
HIGH SCHOOL ASSISTANT(SOCIAL SCIENCE)
ST.THOMAS HIGH SCHOOL, PUNNAKODU, POOYAPPALLY
KOTTARAKKARA, KOLLAM DISTRICT-691537.

BY ADVS.SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR

RESPONDENT(S) / RESPONDENTS:

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM-695014.

3. THE DISTRICT EDUCATIONAL OFFICER,
KOTTARAKKARA, KOLLAM DISTRICT-696501.

4. THE MANAGER,
ST.THOMAS HIGH SCHOOL, PUNNAKODU, POOYAPPALLY
KOTTARAKKARA, KOLLAM DISTRICT-691537.

5. THE HEADMASTER,
ST.THOMAS HIGH SCHOOL, PUNNAKODU, POOYAPPALLY
KOTTARAKKARA, KOLLAM DISTRICT-691537.

R1-R3 BY ADV. GOVERNMENT PLEADER SMT.LOWSY.A

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 18189 OF 2015 (W)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED
03.06.2013

EXT.P2 TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT DATED 26.02.2014

EXT.P3 TRUE COPY OF THE CIRCULAR OF THE GOVERNMENT DATED 30.7.2013

EXT.P4 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 21/07/2014

EXT.P5 TRUE COPY OF THE ORDER OF THE GOVERNMENT DATED 24.4.2015

EXT.P6 TRUE COPY OF THE CIRCULAR NO.13402/J2/12/G.EDN.DATED 10.04.2012
OF THE GOVERNMENT

EXT.P7 TRUE COPY OF THE G.O. (RT)NO.2198/06/G.EDN.DATED 30-05-2006 OF
THE GOVERNMENT.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.18189 of 2015

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Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner who was appointed as H.S.A. (Social Science) from 03.06.2013, is aggrieved by the denial of approval to the said appointment. She accordingly approached the appellate authority under the KER. When the appeal also did not meet with any success, the petitioner approached the Director of Public Instructions through a revision petition under Rule 8-A of Chapter XIV- A KER. The Director of Public Instruction by Ext.P4 order, declined approval to the appointment of the petitioner as H.S.A. (Social Science) from 03.06.2013 on the ground that there was no vacancy to accommodate the petitioner as such. Aggrieved by Ext.P4 order of the Director of Public Instruction, the petitioner has preferred a further revision before the Government. By Ext.P5 order, the Government allowed the revision petition preferred by the petitioner, and directed the 3rd respondent to approve the appointment of the petitioner with effect from 03.06.2013, if she was otherwise eligible, and subject to final judgment in W.A.No.812 of 2015 filed against the common judgment dated 15.01.2015 in which the Government orders governing teachers package was quashed. In the writ petition, the petitioner is aggrieved

by the non-implementation of Ext.P5 order by the 3rd respondent. A statement has been filed on behalf of the 3rd respondent wherein at paragraph 4, it is stated as follows:

“4. It is submitted that the staff fixation orders for the year 2013-2014 and 2014-15 was ordered in accordance with GO(P) 124/14 dated 04.07.2014, the school was sanctioned 6 divisions and 6 posts of H.S.A core subjects. Smt.R.Smitha, H.S.A (PS) the excess hand retained in the school for the year 2012-13 was accommodated in the retirement vacancy of Sri.K.Ninan, H.S.A. (SS) with effect from 31.03.2013. The above deployment was done as per the direction in para III (2) of GO(P) No.124/14/G.Edn. dated 04.07.2014 for the years 2013-14 and 2014-15. The petitioner has no established post in the school as on 03.06.2013, to effect approval of appointment by the undersigned.”

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that inasmuch as by Ext.P5 order, the revision petition preferred by the petitioner has already been allowed by the 1st respondent and a specific direction was given to the 3rd respondent to approve the appointment of the

petitioner with effect from 03.06.2013 if she was otherwise eligible, it was not open to the 3rd respondent to once again go into the merits of the case by ignoring Ext.P5 order of the superior authority. I therefore dispose the writ petition with a direction to the 3rd respondent to issue consequential orders, to Ext.P5 order of the Government, by approving the appointment of the petitioner with effect from 03.06.2013, making it clear that, the said approval will be subject to the final judgment in W.A.No.812 of 2015 which is pending before this Court. The 3rd respondent shall pass consequential orders as directed within a period of three weeks from the date of receipt of a copy of this judgment. Needless to say, the petitioner shall also be disbursed the salary and other allowances flowing from the said approval, within a period of two months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

