

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 18658 of 2014 (F)

PETITIONER(S):

ABDUL NASAR C.
LPSA, AMLP SCHOOL, EDAIKKAL
VAZHENKADA, MALAPPURAM

BY ADVS.SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY
SRI.TONY AUGUSTINE
SRI.M.STEPHEN

RESPONDENT(S):

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

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.

3. THE ASSISTANT EDUCATIONAL OFFICER
PERINTHALMANNA, MALAPPURAM- 676 505

4. THE MANAGER
AMLPSCHOOL, EDAIKKAL, VAZHENKADA
MALAPPURAM-679357

R4 BY ADV. SRI.S.DILEEP
R1-R3 BY ADV. GOVERNMENT PLEADER: SRI S JAMAL SR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1 - TRUE COPY OF THE APPOINTMENT ORDER DATED 8-8-2011 FROM THE
4TH RESPONDENT

EXT.P2 - TRUE COPY OF THE ORDER DATED 21-12-2012 FROM THE 2ND
RESPONDENT

EXT.P3 - TRUE COPY OF THE REVISION PETITION DATED 24-02-2013

EXT.P4 - TRUE COPY OF THE ORDER DATED 10-3-2014 FROM THE 1ST
RESPONDENT.

RESPONDENT(S) ' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.18658 of 2014
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Dated this the 04th day of February, 2015

JUDGMENT

Petitioner was appointed as Lower Primary School Assistant in the 4th respondent school on 08.08.2011 in a promotion vacancy. Originally, petitioner was appointed on 01.06.2011. The Manager filed appeal before the District Educational Office, Malappuram to approve the appointment of the petitioner with effect from 01.06.2011 which was rejected for the reason that no vacancy was available vide order No.Kdis/B1/13055/2011 dated 31.03.2012. As per Ext.P2, petitioner's appointment was approved on daily wage basis from 08.08.2011 to 31.03.2012 and thereafter, from the reopening day onwards on regular basis (ie from 04.06.2012). Petitioner relies on the decision in **State of Kerala vs. Sneha Cheriyan (2013(1) KLT 755)** and submits that the Manager can make appointment in school even if the duration of which is less than one academic year but on daily wage basis and if the duration of vacancy exceeds one academic year that can be filled up on scale of pay basis. Hence there is no legal impediment in approving the appointment of petitioner on regular scale basis with effect from 08.08.2011 onwards as this appointment is against an established vacancy continuing beyond an academic year.

2. In view of the fact that appointment is to a regular vacancy, I am of the view in the light of the **State of Kerala vs. Sneha Cheriyan**'s case, petitioner is entitled for approval of his appointment with effect from 08.08.2011. Accordingly, Writ Petition is allowed. Authority is directed to approve the appointment of petitioner with effect from 08.08.2011 and disburse salary. Treating the appointment of the petitioner as regular service with effect from 08.08.2011, arrears shall be disbursed to the petitioner within a period of three months from the date of receipt of a copy of this judgment.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/07/02/15