

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. 22364 of 2012 (U)

PETITIONER(S):

K.RIYAS AGED 37 YEARS
HIGH SCHOOL ASSISTANT (MALAYALAM)
MIM HIGHER SECONDARY SCHOOL, P.O.PERODE, NADAPURAM
VADAKARA
KOZHIKODE DISTRICT. PIN - 673504 RESIDING AT
KUNHIPARAMBATH HOUSE
CHALAPPURAM P.O. NADAPURAM, VADAKARA
KOZHIKODE - 673504.

BY ADVS.SRI.N.MANOJ KUMAR
SMT.JAYASREE MANOJ

RESPONDENT(S):

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

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM - 695001.

3. THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE 673 001

4. DISTRICT EDUCATIONAL OFFICER, VADAKARA 673101.

5. THE MANAGER, MIM HIGHER SECONDARY SCHOOL, P.O.PERODE,
NADAPURAM, VADAKARA, KOZHIKODE DISTRICTPIN - 673504.

R5 BY ADV. SMT.K.AMMINIKUTTY

R1 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.P-1 A TRUE COPY OF THE ORDER DATED 30/11/2004 PASSED BY THE
FOURTH RESPONDENT.
- EXT.P-2 TRUE COPY OF THE ORDER DATED 24.08.2005 PASSED BY THE
JOINT DIRECTOR OF PUBLIC INSTRUCTIONS.
- EXT.P-3 TRUE COPY OF THE PROCEEDINGS DATED 30.11.2005 OF THE
2ND RESPONDENT.
- EXT.P-4 TRUE COPY OF THE ORDER DATED 19.7.2005 OF THE 3RD
RESPONDENT.
- EXT.P-5 TRUE COPY OF THE ORDER DATED 24.09.2008 OF THE 1ST
RESPONDENT.
- EXT.P-6 TRUE COPY OF THE ORDER NO.D.DIS.B3-8214/2011 DATED
12.01.2012
- EXT.P-7 TRUE COPY OF G.O(P)NO.46/2006 DATED 7/2/2006
- EXT.P-8 TRUE COPY OF G.O(P) NO.19/2009 DATED 9/2/2009
- EXT.P-9 TRUE COPY OF G.O(P) NO.10/2010 DATED 12/1/10
- EXT.P-10 TRUE COPY OF G.O(RT) NO.842/2011/G.EDN DATED 1/3/09
- EXT.P-11 TRUE COPY OF LETTER NO.8897/E1/05/G.EDN DATED 27.01.2005
- EXT.P-12 TRUE COPY OF REPRESENTATION DATED 12.10.2011 FILED BY THE
PETITIONER.
- EXT.P-13 TRUE COPY OF REPRESENTATION DATED 14.06.2011 FILED BY THE
FIFTH RESPONDENT.
- EXT.P-14 TRUE COPY OF REPRESENTATION DATED 14.06.2011 FILED BY THE
WIFE OF THE PETITIONER.
- EXT P15 TRUE COPY OF CIRCULAR DATED 24.1.05

RESPONDENTS' EXHIBITS :NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.22364 of 2012
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Dated this the 04th day of February, 2015

JUDGMENT

Petitioner was appointed as High School Assistant (Malayalam) in the MIM Higher Secondary School, Perode. On 13.07.2004 approval of petitioner's appointment was rejected on the ground that Manager has not appointed protected teachers in the school. It is submitted that two of the protected teachers have been appointed and no list of protected teachers was made available to the Manager at the relevant time. Petitioner also relies on Ext.P10 where the approval has been given to one of the teacher who was appointed on 15.09.2004 as a special case by the Government. It is submitted that in view of the fact that appointment of the junior teacher has been approved, there is no point in ignoring the claim of approval of the petitioner with effect from the date of appointment.

2. The issue is covered in favour of the petitioner in view of the decision in **State of Kerala Vs. Nadeera (2013 (2) KLT 88)** where reference is made to the decision in **Nadeera Vs.State of Kerala (2011(3) KLT 790)**.

3. Having approved the appointment of juniors to the petitioner's, I do not find any justification on the part of the

authorities rejecting approval of appointment of petitioner. There shall be a direction to the respondents to approve the appointment of petitioner with effect from 13.07.2004 and pay arrears of salary within a period of three months from the date of receipt of a copy of this judgment. Accordingly, impugned orders are quashed to the limited extent of declining approval only from the date of appointment.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.