

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 22403 of 2011 (A)

PETITIONER(S) :

SARADAMMA C. ,
HSA (RETIRED) , JISHIKESH,
MADAVOOR P.O. ,
KOZHIKODE DISTRICT.

BY ADV. SRI.R.K.MURALEEDHARAN.

RESPONDENT(S) :

1. THE STATE OF KERALA,
REP. BY SECRETARY TO GENERAL EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM-695 001.
2. THE ACCOUNTANT GENERAL (A & E) ,
KERALA, THIRUVANANTHAPURAM - 695 001.
3. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE-673 001.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: TRUE COPY OF THE RELEVANT PAGE OF THE SERVICE BOOK OF THE PETITIONER.

EXT.P2: TRUE COPY OF THE RELEVANT PAGE OF THE FORM NO.2 APPLICATION FOR PENSION AND ALLIED BENEFITS.

EXT.P3: TRUE COPY OF THE COMMUNICATION OF THE 2ND RESPONDENT DATED 06/08/2007.

EXT.P4: TRUE COPY OF THE COMMUNICATION DATED 19/02/2007 BY 2ND RESPONDENT IN THE CASE OF BALAKRISHNAN K.

EXT.P5: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF THE COMMUNICATION BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT THE COPY TO THE PETITIONER.

EXT.P7: TRUE COPY OF THE COMMUNICATION OF THE 2ND RESPONDENT TO THE HEADMISTRESS WITH COPY TO THE PETITIONER DATED 30/06/2011.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.22403 of 2011

Dated this the 4th day of March, 2015

JUDGMENT

The question is whether the service put in by the petitioner in the Government School prior to joining an aided school should be reckoned as qualifying service for pension.

2. The petitioner has two spells as HSA (Malayalam) from 4.8.1975 to 31.3.1976 and from 16.7.1976 to 31.3.1977 as per the advice by the Employment Exchange in the Government School. These services have been recorded in the service book. The grievance of the petitioner is that, that spell in the Government School prior to joining the aided school shall also be reckoned for the service benefits. The petitioner also relies on Ext.P4, a similar benefit accorded to one of the teachers in the same school.

3. The petitioner's claim has been rejected by Ext.P7 stating that the method of appointment is different and the

service prior to appointment in the aided School cannot be reckoned as qualifying service for pension.

4. The Rule is otherwise silent about reckoning the qualifying service in the Government School prior to appointment in the aided School.

5. The learned counsel for the petitioner heavily relied on Rule 19 of Part-III of the Kerala Service Rules which provides that service paid from the 'general revenues qualifies'. Admittedly, the petitioner was paid from the general revenue for her service in the Government School. In that view of the matter, the petitioner submits that she is entitled to reckon the service in the Government School prior to her appointment in the aided school.

6. Though the Rule otherwise provides for reckoning service in the aided School or other undertaking for qualifying service, there are no other special provisions in the Kerala Service Rules to reckon the service as teacher in the Government School prior to appointment in the aided School. In that sense, the only

provision would enable to reckon the petitioner's service in the Government School prior to appointment in the aided School is Rule 19 of the KSR. This Rule clearly states that the service paid from the general revenue qualifies. The method of appointment is not a criteria to reckon the qualifying service unless it is specifically provided in any of the Rule. So long as the service is paid from the general revenue, necessarily, that service must qualify as the qualifying service for pension.

In view of the above, the writ petition is allowed and the impugned order is set aside. The period put in by the petitioner in the Government School prior to the aided School shall also be reckoned for the service benefits. Needful shall be done to revise the pensionary benefits to the petitioner within a period of three months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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