

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

W.P.(C).No.20149 of 2015 (P)

PETITIONER(S):-

SIBI.K.ITTACHEN,
PEON, M.A.S.M.H.S.S, VENMANAD, PAVARATTY P.O.,
TRICHUR DISTRICT - 680 507

BY ADVS.SRI.M.R.ANISON
SMT.K.P.GEETHA MANI
SMT.P.A.RINUSA

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM - 695 001
3. THE DISTRICT EDUCATIONAL OFFICER,
CHAVAKKAD - 678 506.
4. THE MANAGER, M.A.S.M.H.S.S. VENMANAD,
PAVARATTY P.O, TRICHUR DISTRICT - 680 507.

R1 TO R3 BY GOVERNMENT PLEADER SMT.A.LOWSY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.20149 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1 TRUE COPY OF THE ORDER DATED 21-02-2011 ISSUED BY THE
2ND RESPONDENT.

EXHIBIT P2 TRUE COPY OF THE ORDER DATED 08-09-2008 ISSUED BY THE
3RD RESPONDENT.

EXHIBIT P3 A TRUE COPY OF THE G.O(RT) NO 2467/13/G.EDN
DATED 15-06-2013, THE REVISION PETITION DATED 03-10-2012
BY THE PETITIONER.

EXHIBIT P4 A TRUE COPY OF THE ORDER NO B5/2706/15/K. DIS
DATED 23-05-2015.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.20149 of 2015-P

Dated this the 07th day of September, 2015.

JUDGMENT

The petitioner was appointed in a regular vacancy of Peon, on 08.09.2008, on the incumbent resigning from the said post. The petitioner's appointment was approved only on daily wage basis from 08.09.2008 to 31.03.2009 by Exhibits P1 and P2 orders. Subsequently the claim raised for vacation salary was also allowed on daily wage basis as per Exhibit P3.

2. The said orders passed, approving the petitioner's appointment on daily wage basis, were on the strength of G.O.(P) No.144/2013/G.Edn. dated 22.04.2013. The said Government Order has been set aside by this Court by the decision reported in ***Nair Service Society v. State of Kerala v. [2013 (4) KLT 921]***. The said decision proceeded on the basis of the decision of the Hon'ble Supreme Court in ***State of Kerala v. Sneha Cheriyan [2013 (1) KLT 755 (SC)]*** that, if the appointment is made to a regular post, even if it is in the midst of an academic year, the same has to be regularised as a regular appointment and not on daily wage basis.

3. In the light of the above, Exhibits P1 to P3 would stand stand aside to the extent of the petitioner's appointment between 08.09.2008 and 31.05.2009 has been approved on a daily wage basis alone. The 3rd respondent shall issue orders in accordance with the afore-cited decisions, approving the petitioner's appointment as regular, from 08.09.2008 and sanctioning the pay and allowances as required in a regular appointment.

The writ petition is allowed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]