

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 22860 of 2013 (F)

PETITIONER:

SANTHOSH KUMAR A.R AGED 34 YEARS
S/O.APPUKUTTAN NAIR, NARAYANA VILASAM, VENKODE P.O.
VATTAPPARA, TRIVANDRUM
NOW WORKING AS HIGHER SECONDARY SCHOOL TEACHER (JR.)
M.V.H.S.S., THUNDATHIL, TRIVANDRUM.

BY ADV. SRI.PAULSON THOMAS

RESPONDENTS:

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

2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
OFFICE OF THE DIRECTOR OF HIGHER SECONDARY EDUCATION
THIRUVANANTHAPURAM - 695 001.

3. MANAGER,
M.V.HIGHER SECONARY SCHOOL, THUNDATHIL
THIRUVANANTHAPURAM - 695 005.

R2 BY ADV. GOVERNMENT PLEADER: SMT SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

EXHIBIT P1. APPOINTMENT ORDER OF THE PETITIONER AS HSST (JUNIOR) HINDI.

EXHIBIT P2. APPROVAL ORDER OF THE PETITIONER AS HSST (JUNIOR) HINDI.

EXHIBIT P3. STAFF FIXATION ORDER OF THE 3RD RESPONDENT'S SCHOOL IN RESPECT OF THE ACADEMIC YEARS 1999-2000.

EXHIBIT P4. STAFF FIXATION ORDER IN RESPECT OF THE ACADEMIC YEAR 2000-2001 AND 2001-2002.

EXHIBIT P5. ORDER OF THE GOVERNMENT DATED 25.09.2007.

EXHIBIT P6. JUDGMENT IN W.P.(C) 7009/2008 DATED 20.10.2009.

EXHIBIT P7 G.O (RT) NO.5574/2010 DATED 10.12.2010.

EXHIBIT P8. PROCEEDINGS NO.17803/T2/2011/GEN.EDN. DATED 29.12.2011 ISSUED BY THE SECRETARY, GENERAL EDUCATION.

EXHIBIT P9. PROCEEDINGS OF THE SECRETARY GENERAL EDUCATION NO.17803/T2/2012/GEN. EDN. DATED 20.12.2013.

EXHIBIT P10. PROCEEDINGS OF THE DIRECTOR NO.ACD.B3/19903/HSE/01 DATED 16.04.2013.

EXHIBIT P11. G.O.(MS) .NO.261/2001/GEN. EDN DATED 17.08.2001.

EXHIBIT P12. JUDGMENT IN W.P(C)NO.40409/2003 DATED 02.02.2012.

EXHIBIT P13. PROCEEDINGS OF THE DIRECTOR OF HIGHER SECONDARY EDUCATION DATED 25.01.2013.

RESPONDENT(S) ' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.22860 of 2013
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Dated this the 20th day of February, 2015

JUDGMENT

Petitioner was appointed as HSST Junior (Hindi) in the third respondent school during 2000-2001. This was initially rejected though there was sufficient strength for sanctioning such post. However, later it was found that there were sufficient students and school was eligible for a sanctioned post, Government sanctioned the post only during 2001-2002. However, Government in Ext.P9 rejected the proposal for post creation of HSST Junior (Hindi) against which petitioner was appointed during 2000-2001 stating that Manager has no unlimited liberty to make appointment at their will and management had to obtain prior sanction from the Government/educational authorities for making appointments. Therefore, ratification for illegal appointment cannot be granted. The approval was granted only with effect from 15.11.2011.

2. No doubt, Government is justified in disapproving the conduct of the Manager in making appointments. However, fact remains that petitioner has been appointed to an admissible post. While deprecating the conduct of the Manager, right of the

appointee cannot be denied who in this matter appears to be innocent. In such situation, I am of the view petitioner's appointment ought to have been approved with effect from the date of appointment. In view of the above, there shall be a direction to the second respondent to approve the appointment with effect from the date of appointment and disburse arrears of salary within a period of three months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/21/02/15