

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR
MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).NO. 20808 OF 2015 (A)

PETITIONER(S) :

1. SEEJO JOHN ALAPPAT,
LOWER PRIMARY SCHOOL ASSISTANT, K.S.K.BASIC SCHOOL
KUTTANELLOOR, THRISSUR DISTRICT, PIN - 680 014.

2. THE MANAGER,
K.S.K.BASIC SCHOOL, KUTTANELLOOR, THRISSUR DISTRICT
PIN - 680 014.

BY ADVS.SRI.ABRAHAM VAKKANAL (SR.)
SRI.PAUL ABRAHAM VAKKANAL
SRI.DIJO SEBASTIAN
SMT.VINEETHA SUSAN THOMAS

RESPONDENT(S) :

1. THE ASSISTANT EDUCATIONAL OFFICER,
THRISSUR EAST, THRISSUR DISTRICT, PIN - 680 020.

2. THE DISTRICT EDUCATIONAL OFFICER,
THRISSUR, PIN - 680 020.

3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR, PIN - 680 001.

4. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM - 14.

5. STATE OF KERALA,
REP. BY IT'S SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695 001.

BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE APPOINTMENT ORDER WITH ENDORSEMENT OF APPROVAL
DTD. 11.01.1999.

EXT.P2: TRUE COPY OF THE APPOINTMENT ORDER OF THE 1ST PETITIONER DTD.
01.06.2011.

EXT.P2. (A) : TRUE COPY OF THE ORDER DTD. 31.10.2011.

EXT.P3: TRUE COPY OF THE APPOINTMENT ORDER DTD. 04.06.2012.

EXT.P3. (A) : TRUE COPY OF THE APPOINTMENT ORDER DTD. 04.06.2012.

EXT.P4: TRUE COPY OF THE APPEAL DTD. 09.11.2011.

EXT.P5: TRUE COPY OF THE ORDER NO.B1/9421/11 DTD. 29.02.2012.

EXT.P6: TRUE COPY OF THE CIRCULAR NO.60930/12/11/G. EDN. DTD.
25.10.2011.

EXT.P7: TRUE COPY OF THE ORDER NO.E-969/12/K.DIS DTD. 16.04.2012.

EXT.P8: TRUE COPY OF THE APPEAL REF. NO.D-010/2012 DTD. 30.04.2012.

EXT.P9: TRUE COPY OF THE ORDER NO.F2/93121/2014/DPI/K.DIS DTD.
27.05.2015.

EXT.P10: TRUE COPY OF THE G.O(P).NO.199/2011/G. EDN. DTD. 01.10.2011.

EXT.P11: TRUE COPY OF THE CIRCULAR NO.13402/J2/12/G. EDN. DTD.
10.04.2012.

EXT.P12: TRUE COPY OF THE CIRCULAR NO.13402/12/12/G.EDN. DTD.
10/05/2012.

EXT.P13: TRUE COPY OF THE CIRCULAR NO.58604/J2/12/G. EDN. DTD.
06.11.2012.

EXT.P14: TRUE COPY OF THE AUDIT OBJECTION OF THE DEPUTY DIRECTOR,
KOZHIKODE AND THE REPLY GIVEN TO IT IN THE JUNE ISSUE OF 'HEADMASTER'
DTD. NIL.

EXT.P15: TRUE COPY OF THE ORDER NO.H(2)/88862/DPI/K.DIS. DTD.
22.05.2015.

EXT.P16: TRUE COPY OF THE APPOINTMENT ORDER DTD. 02.06.2014.

EXT.P17: TRUE COPY OF THE COVERING LETTER TO THE 1ST RESPONDENT DTD.
01.06.2015.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.20808 of 2015

.....
Dated this the 20th day of July, 2015

J U D G M E N T

The 1st petitioner, who is a Lower Primary School Assistant in the School under the management of the 2nd petitioner had a claim for future appointments under Rule 51 A of Chapter XIV A, KER from 1999. When a vacancy arose in the School with effect from 01.06.2011 consequent to the retirement of Smt.Sheeba P.Paliakkara, who was promoted as Headmistress, the petitioner was appointed to the said vacancy. Ext.P2 is the appointment order which shows that the petitioner was initially appointed to the said vacancy for the period from 01.06.2011 to 31.03.2012. Thereafter, she was reappointed in the same vacancy with effect from 04.06.2012. It is seen from the averments in the writ petition that both these appointments were not approved by the educational authority on the ground that, the petitioner being a Rule 51 A claimant would not get precedence in the matter of appointment over a protected teacher, who had to be appointed to vacancies that arose in the School. It is aggrieved by the orders denying approval to the appointment of the 1st petitioner that, the petitioners have approached this Court through the present writ petition.

2. I have heard the learned Senior counsel for the petitioners and the learned Government Pleader for the official respondents

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the issue in question is no longer res integra, and by a decision of this Court in **Ciji.P.Jose v. State of Kerala and Others [2012 (1) KLT 867]**, it was held that when it comes to a preferential appointment in a regular vacancy that arises in an uneconomic School, a Rule 51 A claimant will have a preference in appointment over a protected hand inasmuch as a Rule 51 A claimant traces her right to a provision of a Rule, as against a protected teacher who gets a right consequent to executive orders. In that view of the matter, I feel that there is no justification in the respondents refusing approval to the appointment of the 1st petitioner which is admittedly to a regular vacancy that arose in the School with effect from 01.06.2011. Accordingly, following the decision of this Court in **Ciji.P.Jose v. State of Kerala and Others [2012 (1) KLT 867]**, this writ petition is allowed by directing the respondents to approve the appointment of the 1st petitioner as LPSA in the School with effect from 01.06.2011 and

grant the salary and other allowances that flow from the said approval. The respondents shall do the needful in disbursing the arrears of salary and other benefits due to the 1st petitioner within a period of three months from the date of receipt of a copy of this judgment, after approving the appointment in the manner indicated above. I make it clear that, while effecting payment as directed in this judgment, the respondents can adjust the amounts already paid to the 1st petitioner by way of daily wages.

The writ petition is disposed of as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

