

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 37434 of 2003 (F)

PETITIONER:

**JAYASREE O.K., PULINTHANATHU HOUSE
THAMMANIMATTOM P.O., RAMAMANGALAM P.O.
PIN-686 663, ERNAKULAM DISTRICT.**

BY ADV. SRI.K.G.ANIL BABU

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY, EDUCATION
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF COLLEGIATE EDUCATION
THIRUVANANTHAPURAM.**
- 3. THE N.S.S. CORPORATE MANAGEMENT
PERUNNA, CHANGANASSERY
REPRESENTED BY ITS EDUCATION SECRETARY.**

**BY ADVS. SRI.P.G.PARAMESWARA PANICKER (SR.)
SRI.P.GOPAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :-

- EXT.P1 - COPY OF THE CERTIFICATE ISSUED NO.A2-6622/98/K.DIS
DATED 27.08.1998 ISSUED BY THE TAHSILDAR,
KUNNATHUNAD.

- EXT.P2 - COPY OF THE PENSION PAYMENT ORDER DATED 07.02.2001
ISSUED FROM THE ACCOUNT GENERAL.

- EXT.P3 - COPY OF THE REQUEST SUBMITTED BY THE PETITIONER
BEFORE THE GENERAL SECRETARY, N.S.S. PERUNNA
CHANGANASSERY, DATED 02.07.1998.

- EXT.P4 - COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT, DATED 05.02.1999.

- EXT.P5 - COPY OF THE LETTER ISSUED BY THE THAMMANIMATTOM
N.S.S. KARAYOGAM, DATED 05.02.1999.

- EXT.P6 - COPY OF THE LETTER SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT, DATED 21.10.1999.

- EXT.P7 - COPY OF THE RECOMMENDATION DATED 19.11.2002
SUBMITTED BY THE THAMMANIMATTOM N.S.S. KARAYOGAM.

- EXT.P8 - COPY OF THE REQUEST SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT, DATED 05.05.2003.

- EXT.P9 - COPY OF THE G.O.(P) NO.12/99/P&ARD DATED 24.05.1999.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.37434 of 2003

Dated this the 12th day of October, 2015.

JUDGMENT

The petitioner, the wife of a deceased employee of the 3rd respondent, who died in service, staked a claim for compassionate appointment. The scheme applicable to Government service at that point of time was at Ext.P9, wherein Clause 9 specifically excluded employees of Private Colleges. The petitioner filed the above writ petition challenging the aforesaid clause.

2. The learned counsel for the 3rd respondent College submits that, in fact a challenge was allowed by this Court in another writ petition filed, against which W.A. No.248 of 2012 was filed. While the matter was pending, the Government initiated proceedings to frame guidelines to bring in compassionate appointment scheme to the Private Colleges also. The Division Bench noticed the contention of the Government that the guidelines are yet to be finalised and left the Management to challenge the guidelines, when it is so framed.

3. The Division Bench, considering the specific case, in which, Clause [9] aforesaid was set aside, in WP(C) No.30738 of 2004, found that since the guidelines were absent the said clause would not have enured to the benefit of the claimant. It was also found that even if Clause [9] was found to be valid, the only direction could have been to direct the Government to consider the case of the employees of the Private Colleges and to extend the scheme to such Colleges also. The judgment of the learned Single Judge directing appointment was set aside. The petitioner therein was also allowed to stake her claim, when guidelines are framed. Herein also a similar order would suffice. The petitioner or her children could stake a claim, if the guidelines are upheld eventually. It is to be noticed that the judgment of the Division Bench is also assailed before the Hon'ble Supreme Court, in SLP No.34891 of 2014 and connected matters.

The writ petition is disposed of, with the aforesaid reservation.

Sd/-
K. VINOD CHANDRAN,
JUDGE
//True Copy//

sp/15/10/15

P.A. to Judge.