

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN**

**MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936**

**WP(C).No. 25502 of 2008 (J)**  
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**PETITIONER(S):**  
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1. K.V.SUMITHRAN, LIBRARIAN, TALUK LIBRARY,  
VADAKARA P.O., VADAKARA, KOZHIKODE.
2. K.RAJAN, LIBRARIAN, MOULANA ABDUL KALAM AZAD,  
LIBRARY, THALASSERY TALUK,  
THALASSERY P.O., KANNUR DISTRICT.
3. GANGADHARAN.M, LIBRARIAN,  
DISTRICT CENTRAL LIBRARY, KOZHIKODE.
4. GOPALAN M.K., RETIRED LIBRARIAN,  
MANNARKANDY P.O., THUVAKKADE, CHEMANCHERRY.

**BY ADV. SRI.R.PARTHASARATHY**

**RESPONDENT(S):**  
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1. STATE OF KERALA, REPRESENTED BY THE  
PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT,  
THIRUVANANTHAPURAM.
2. STATE LIBRARY COUNCIL, REPRESENTED BY ITS SECRETARY,  
THIRUVANANTHAPURAM.
3. THE SECRETARY, DISTRICT LIBRARY COUNCIL,  
PALAYAM BUS STAND BUILDING, KOZHIKODE.
4. THE DEPUTY DIRECTOR, LOCAL FUND AUDIT,  
KOZHIKODE.
5. THE DIRECTOR, LOCAL FUND AUDIT,  
THIRUVANANTHAPURAM.

**R1,R4 & R5 BY GOVERNMENT PLEADER SRI.ABHIJETT LESSLIE  
R2 & R3 BY ADV. SRI.P.V.SURENDRANATH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**sts**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

- P1 COPY OF THE NOTIFICATION DATED 19/12/1998**
- P2 COPY OF THE GOVT. ORDER G.O.(MS) 02/99/H.EDN (A) DEPT. DATED 1/1/1999.**
- P3 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT RE-GRADING THE 1ST PETITIONER AS IV GRADE LIBRARIAN.**
- P4 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT RE-GRADING THE 2ND PETITIONER AS IV GRADE LIBRARIAN**
- P5 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT RE-GRADING THE 3RD PETITIONER AS IV GRADE LIBRARIAN**
- P6 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT RE-GRADING THE 4TH PETITIONER AS IV GRADE LIBRARIAN**
- P7 COPY OF THE PROCEEDINGS OF THE LOCAL LIBRARY AUTHORITY, KANNUR DATED 5/1/1998**
- P8 COPY OF THE ORDER OF APPROVING THE PAY SCALE FIXED FOR THE ERSTWHILE III GRADE LIBRARIANS UNDER THE LOCAL LIBRARY AUTHORITY AFTER IMPLEMENTATION OF EXT.P2 BY THE DEPUTY DIRECTOR OF LOCAL FUND AUDIT**
- P9 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS DATED 31/12/2001**
- P10 COPY OF THE REPRESENTATION SUBMITTED BEFORE THE HONOURABLE MINISTER FOR EDUCATION DATED 14/9/2002**
- P11 COPY OF THE ORDER NO.36186/A3/03/H.EDN DEPT. DATED 5/3/2004**
- P12 COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER.**
- P13 COPY OF THE REPRESENTATION SUBMITTED BY THE 3RD PETITIONER.**
- P14 COPY OF THE REPRESENTATION SUBMITTED BY THE 4TH PETITIONER.**
- P15 COPY OF THE REPRESENTATION SUBMITTED BY THE 4TH PETITIONER TO THE 1ST RESPONDENT**
- P16 COPY OF THE REPORT FROM THE 2ND RESPONDENT**
- P17 COPY OF THE LETTER RECEIVED BY THE PETITIONER FROM THE 2ND RESPONDENT**
- P18 COPY OF THE ORDER DATED 19/12/96 POSTING THE 3RD PETITIONER AS LIBRARIAN GRADE III.**

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P19 COPY OF THE INFORMATION RECEIVED UNDER THE RIGHT TO INFORMATION  
ACT DATED 13/10/2009

P20 COPY OF THE ORDER DATED 28/9/2004 GRANTING HIGHER GRADE TO  
SIMILIARLY SITUATED PERSONS LIKE THE PETITIONERS.

RESPONDENT'S EXHIBITS:

R2(A) COPY OF THE G.O(P) 36/71/H.EDN DATED 23/3/1971.

/TRUE COPY/

P.S.TO.JUDGE

sts

**K.SURENDRA MOHAN, J.**

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**W.P.(C).No.25502 of 2008**  
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**Dated this the 5<sup>th</sup> day of January, 2015**

**JUDGMENT**

The petitioners are working as Librarians in different Libraries under the 2<sup>nd</sup> respondent, State Library Council. Earlier, the petitioners were under the respective Local Library Authority, Kozhikkode. The petitioners are all persons having the qualification of S.S.L.C and a certificate in Library Course.

2. While so, the employees of the Local Library Authority Kozhikkode were brought under the State Library Council as per Ext.P1 Government Order. The petitioners were all working as Grade-III Librarians at the time of issue of Ext.P1. As per Ext.P2 Government Order dated 1.1.1999, the benefits of another Government Order, G.O.(P) No.36/71/Edn. dated 23.3.1971, were made applicable to the Librarians of Local Library Authorities. The said Government Order was given effect retrospectively from 1.1.1971. Thereafter, by Exts.P3 to P6 proceedings of the Secretary, Local Library Authority, Kozhikkode

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the petitioners were regraded as Librarians Grade-IV. The petitioners have filed this writ petition challenging the said orders, after a lapse of 10 years.

3. According to Sri.Parthasarathy, Advocate who appears for the petitioners, as per Ext.P2 only the benefits of the Government Order dated 23.3.1971 have been extended to the petitioners. Therefore, the authorities, were not justified in regrading them as Librarians Grade-IV by Exts.P3 to P6. It is pointed out by the learned counsel that, as per the Kerala Public Libraries (Kerala Granthasala Sanghom) Rules, 1991 also the qualification prescribed for a Librarian Grade-III is only S.S.L.C or an equivalent qualification and a certificate course in Library Science. The petitioners are persons who possess the said qualification. The contention is that, the impugned action of regrading them as Librarians Grade-IV is liable to be set aside.

4. The contention of the counsel for the petitioners are opposed by the 2<sup>nd</sup> respondent, who has filed a counter affidavit. It is pointed out in the counter affidavit that, the petitioners are persons who had joined service as Part Time Sweepers. They

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were thereafter promoted to their existing posts. They had been regraded for the reason that, they were not possessed of the qualifications stipulated by the Government Order dated 23.3.1971, a copy of which has been produced as Ext.R2(a). According to, Sri.P.V.Surendranath, who appears for the 2<sup>nd</sup> respondent, since Ext.P2 has not provided for any relaxation of the qualifications stipulated by Ext.R2(a), the petitioners cannot claim that they are entitled to the benefits of the said Government Order alone. Ext.R2(a) Government Order has to be implemented subject to the terms and conditions stipulated therein. A further contention is put forward that, though Ext.P1 Government Order is dated 19.12.1998, the 2<sup>nd</sup> respondent had taken over the Library only on 20.3.1999 after the Government Order, Ext.P1, was implemented. It is pointed out that, Exts.P3 to P6 proceedings were issued prior to the implementation of Ext.P1. A further contention is taken that, the present challenge against Exts.P3 to P6 are liable to be rejected on the ground of delay, the impugned orders having been issued on 30.1.1999. For the above reasons, it is contended that the petitioners are

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not entitled to any of the reliefs prayed.

5. Heard. As already noticed above, the contention of the petitioners is that, as per Ext.P2 what the Government have ordered is that the benefits of the Government Order dated 23.3.1971 be extended to the Librarians of Local Library Authorities with effect from 1.1.1971. It is also a further contention that, in so far as Kannur District is concerned the Librarians working there have been retained without regrading as done by Exts.P3 to P6. The said contention is denied by the 2<sup>nd</sup> respondent. According to the 2<sup>nd</sup> respondent, the petitioners do not satisfy the qualifications specified for a Librarian Grade-III.

6. A perusal of Ext.R2(a) shows that, the qualifications of Librarian Grade-III have been stipulated therein. The said portion is extracted hereunder for convenience of reference:

***Librarians Grade III***

*Qualification: Graduation and Degree or Diploma in Library Science.*

***Method of appointment:***

- 1. By promotion from the category of Librarian Grade IV.*
- 2. In the absence of qualified persons for appointment by item (1) above, promotion from any other category in the Kerala Ministerial Subordinate Service.*

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*3. In the absence of suitable persons by the above two methods, by direct recruitment.*

7. As per the above clause, the qualification for a Librarian Grade-III is Graduation and Degree or Diploma in Library Science. Admittedly, the petitioners do not possess the above qualification. Their qualifications are S.S.L.C and a certificate in Library Science. Those are the qualifications prescribed for the post of Librarian Grade-IV as per Ext.R2(a). As per Ext.R2(a), the petitioners have become entitled to the higher pay and other benefits stipulated therein. Having received the benefits under Ext.R2(a), it is not open to the petitioners to contend that it is not necessary for them to satisfy the stipulation regarding qualification, contained therein. A perusal of Exts.P3 to P6 show that they have been issued by the Secretary, Local Library Authorities, Kozhikkode. The said authority is not a party to this writ petition. The contention advanced by the counsel for the 2<sup>nd</sup> respondent therefore appears to be that the impugned orders were issued before the implementation of Ext.P1. According to the 2<sup>nd</sup> respondent, Ext.P1 has been implemented only on

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20.3.1999. Inasmuch as the petitioners are not qualified to be absorbed as Librarians Grade-III as per the stipulations contained in Ext.R2(a), I find that Exts.P3 to P6 are in order. The Secretary, Local Library Authority, Kozhikkode has issued Exts.P3 to P6, in anticipation of the implementation of Ext.P1 Government Order.

8. The above being the position, I do not find any grounds to interfere with the impugned proceedings, Exts.P3 to P6, or to grant any of the reliefs sought for. The petitioners are not entitled to claim promotion as Librarians Grade-III in accordance with the stipulations contained in Ext.R2(a) for the reason that they do not possess the qualifications stipulated therein.

For the above reasons, this writ petition fails and accordingly dismissed.

**Sd/-**

**K.SURENDRA MOHAN,  
JUDGE.**

rkc.