

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C) .No. 22386 of 2015 (W)

PETITIONER(S)/PETITIONERS:

1. SALLY V.J., AGED 37 YEARS,
W/O. JOY MATHEW, AMBALATHINA MADATHIL, VENGOOR P.O.
ERNAKULAM DISTRICT.

2. BINDHU P.R., AGED 39 YEARS
W/O. K.K.MOHANAN, KANDAMALLY HOUSE, THURUTHY P.O.
NUDUNGAPRA, ERNAKULAM DISTRICT.

BY ADVS.SRI.JAIBY PAUL
SMT.ANITA JAIBY

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT
SOCIAL WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. THE DIRECTOR OF SOCIAL WELFARE
DIRECTORATE OF SOCIAL WELFARE VIKAS BHAVAN
THIRUVANANTHAPURAM-695001.

3. THE CHIEF EXECUTIVE OFFICER
KERALA ANGANWADI WORKERS AND HELPERS WELFARE FUND
VIKAS BHAVAN, THIRUVANANTHAPURAM-695033.

4. THE DISTRICT SOCIAL WELFARE OFFICER
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD
ERNAKULAM-682030.

5. THE CHILD DEVELOPMENT PROJECT OFFICER
OFFICE OF THE CHILD DEVELOPMENT PROJECT OFFICER
KOOVAPPADY, IRINGOLE-683548, ERNAKULAM DISTRICT.

6. THE SECRETARY
VENGOOR GRAMA PANCHAYATH, VENGOOR P.O.
ERNAKULAM DISTRICT, PIN-683546.

R6 BY ADVS. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM
R BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-11-2015, ALONG WITH WP(C) NO.22387/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C) .No. 22386 of 2015 (W)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE MEMO ISSUED BY THE 5TH RESPONDENT TO THE 1ST PETITIONER DATED 21-01-2014.

EXHIBIT P2- TRUE COPY OF THE MEMO ISSUED BY THE 5TH RESPONDENT TO THE 2ND PETITIONER DATED 21-01-2014.

EXHIBIT P3- TRUE COPY OF THE COMMUNICATION NO. ICDS/B4-23176/12 DATED 19-07-2014 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P4- TRUE COPY OF THE JUDGMENT DATED 29-09-2010 IN WRIT APPEAL NO. 1528/2010.

EXHIBIT P5- TRUE COPY OF ORDER NO. 176/2015 DATED 10-06-2015 ISSUED BY THE 5TH RESPONDENT.

EXHIBIT P6- TRUE COPY OF THE RESOLUTION NO. 4(11) DATED 26-06-2015 OF THE VENGOOR GRAMA PANCHAYATH.

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

Pn

K.VINOD CHANDRAN, J.

W.P.(C) Nos.22386 & 22387 of 2015

Dated this the 17th day of November, 2015

J U D G M E N T

The petitioners are persons who had been called for selection to the post of Anganwadi Workers and Helpers. They were all issued call letters under a specific notification for regular appointment. However, since a batch of writ petitions filed by the earlier appointees on temporary basis were pending before this Court in W.P.(C).No.19256 of 2012 and connected matters and there was also a stay granted in the said writ petition, against the fresh selections as per interim order dated 30.05.2014, the petitioners are before this Court seeking continuation of their selection.

2. W.P.(C).No.19256 of 2012 and connected matters were disposed of by judgment dated 24.07.2015. There were a number of Government Orders regulating the selection of Anganwadi Workers. Eventually, G.O.(MS).No.31/2012/SWD dated 30.05.2012 was issued cancelling all the said Government Orders. The reasoning for such cancellation was that, the earlier Government Orders were not in conformity with the directions issued by this Court in its order dated

15.10.2009 in W.P.(C).No.25614 of 2009 and order dated 29.09.2010 in Writ Appeal No.1528 of 2010.

3. This Court in the afore cited judgment noticed the said interim orders. The interdiction in W.P.(C).No.25614 of 2009 specifically of G.O.(MS)No.58/2008/SWD dated 22.10.2008 was only to the extent of the constitution of a committee that was found to be at variance with the committee contemplated by the executive orders issued by the Central Government. The interim order in Writ Appeal No.1528 of 2010 was again in respect of making provisional appointments pursuant to the enhancement of retirement age from 58 to 60 years. The interim orders were found to have no bearing on the subject matter of regularisation of the service of persons who were working as Anganwadi Workers/Helpers on a temporary basis and who were included in the list prepared by the erstwhile selection committee, based on the criteria specified in those Government Orders. The committee constituted by the order dated 22.10.2008 was found to have not conducted any selection. The selection was found to have been conducted by a committee constituted under two Government Orders of 2012, which constitution was not challenged by anyone. It was

found that the Government order dated 30.05.2012, was vitiated by total non-application of mind.

4. On the above reasoning, the learned Single Judge held so in paragraph 8 as follows :

"8. Resultantly, I find that the Government Order G.O.(MS)No.31/2012/SWD dated 30.05.2012, to the extent it cancels the earlier Government Orders, namely, G.O.(MS).No.73/2010/SWD, G.O.(MS).No.77/2010/SWD, G.O.(MS).No.79/2010/SWD and G.O.(MS).No.82/2010/SWD, cannot be legally sustained and accordingly, I quash the same. Considering the period of time that has elapsed on account of the pendency of these writ petitions, and the situation where there are persons, who are included in the seniority lists prepared under various projects in the State, who are awaiting regular appointment to the posts of Anganwadi Workers/Helpers, I direct the Government to take expeditious steps to make appointments to the vacancies in the permanent posts of Anganwadi Workers/Helpers, in accordance with the priority envisaged in the various Government Orders that were cancelled by the Government Order dated 30.05.2012, within a period of four months from the date of receipt of a copy of this judgment."

5. Now all the interim orders have revived and the selection would have to be first made as per the list drawn up by the Committee constituted under the earlier Government

Orders. Hence the petitioners case can be considered only after the selections are finalised and if there are any vacancies remaining to be filled up.

6. There is also a ancillary issue of a transfer of one of the workers to the Panchayath. Now the guidelines for transfer having revived, there is nothing wrong in the transfer. Further the person who was transferred has not been made a party in the writ petition. Definitely, this Court cannot consider a contention against the transfer in a writ petition, in which the affected party is not made a party.

In such circumstances, leaving open the contentions of the petitioners, the writ petitions are closed.

Sd/-
K.VINOD CHANDRAN, JUDGE