

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 24490 of 2014 (I)

PETITIONER(S):

**S.R. AJITH KUMAR, S/O.M. SASIKUMAR,
AGED 34 YEARS, HIGH SCHOOL ASSISTANT (MATHS),
KODUMON HIGH SCHOOL, KODUMON,
PATHANAMTHITTA-691 555.**

**BY ADVS.SRI.V.A.MUHAMMED,
SRI.M.SAJJAD.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
JAGATHY, THIRUVANANTHAPURAM-695 014.**
- 3. THE DISTRICT EDUCATIONAL OFFICER,
PATHANAMTHITTA DISTRICT-689 645.**
- 4. THE MANAGER, KODUMON HIGH SCHOOL,
KODUMON, PATHANAMTHITTA-691 555.**
- 5. THE HEADMASTER,
KODUMON HIGH SCHOOL, KODUMON,
PATHANAMTHITTA-691 555.**

**R1 TO R3 BY SR. GOVT. PLEADER SMT.SUNITHA VINOD.
R4 & R5 BY ADV. SMT.P.A.JENZIA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 : TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER
DATED 02-07-2012.**

**EXHIBIT P2 : TRUE COPY OF THE COMMUNICATION OF THE DISTRICT
EDUCATIONAL OFFICER DATED 31-05-2013.**

EXHIBIT P2A : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P2.

**EXHIBIT P3 : TRUE COPY OF THE JUDGMENT IN WP(C).NO.19529/2013-M
DATED 07-12-2013.**

**EXHIBIT P4 : TRUE COPY OF THE ORDER NO.ET(3)/79473/2013/DPI/K.DIS
DATED 17-12-2013 OF THE DIRECTOR.**

**EXHIBIT P5 : TRUE COPY OF THE REVISION PETITION FILED BEFORE
THE GOVERNMENT DATED 27-12-2013.**

**EXHIBIT P6 : TRUE COPY OF THE JUDGMENT IN WP(C).NO.188/2014
DATED 02-01-2014.**

**EXHIBIT P7 : TRUE COPY OF THE GO(RT)NO.2581/2014/G.EDN. DATED 01-07-14 OF
THE GOVERNMENT.**

**EXHIBIT P8 : TRUE COPY OF THE CIRCULAR NO.13402/J2/12/G.EDN.
DATED 10-04-2012 OF THE GOVERNMENT.**

EXT.P8 & P9 ALONG WITH REPLY AFFIDAVIT FILED BY THE PETITIONER

EXT.P8 COPY OF THE MEDICAL CERTIFICATE DATED 28/11/2014.

EXT.P9 COPY OF THE MEDICAL CERTIFICATE DATED 16/10/2014.

RESPONDENT'S EXHIBITS:-

**EXT.R3A COPY OF THE AUDIT OBJECTION OF THE DEPUTY DIRECTOR
OF EDUCATION, PATHANAMTHITTA.**

**EXT.R3B COPY OF THE ORDER DATED 23/10/2014 ISSUED BY THE
2ND RESPONDENT.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.24490 of 2014

Dated this the 12th day of March, 2015

JUDGMENT

The petitioner was appointed as High School Assistant (Maths) in an aided School. The petitioner was appointed in a retirement vacancy. The Manager of the School Sri.M.K.Radhakrishna Pillai died on 30.4.2012. The appointment of the petitioner was on 2.7.2012 by Smt.Sobhana Radhakrishna Pillai, the widow of Sri.M.K.Radhakrishna Pillai. At the time of appointment of the petitioner, there was no approved Manager in the School. However, Smt.Sobhana Radhakrishna Pillai was approved as Manager subsequently. The petitioner was also given approval from the original date of appointment. However, there was audit objection in payment of salary to the petitioner with effect from the original appointment. There is no dispute regarding appointment of the petitioner in admissible post. The irregularity in appointment of the petitioner has been later ratified by approval

given to that person who appointed the petitioner. In that sense, it would validate the original appointment. It has to be noted that this appointment has been made at the time, the process of approval of the Manager is pending and due to delay in processing the irregularity in the appointment of the petitioner has been found. In view of the fact that the approval of the Manager has been validated, the appointment of the petitioner has to be approved as the appointment itself has been validated.

Accordingly, this writ petition is allowed. There shall be a direction to the respondents to pay salary and allowances due to the petitioner with effect from the date of appointment. In view of the above, the audit objection is overruled. There shall be a further direction to the third respondent to release the entire arrears of salary within a period of two months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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