

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 24744 of 2015 (P)

PETITIONER:

**SOFIA K AGED 50 YEARS
W/O.C.N.PREMATH, MULAVALATHU VEEDU, KEEZHATTINGAL.PO
ATTINGAL
THIRUVANANTHAPURAM-695101.(HIGH SCHOOL ASSISTANT
(ENGLISH-RETIRED)
SREE NARAYANA VILASAM HIGHER SECONDARY SCHOOL
NEDUNGANDA).**

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM-695001.**
- 3. THE DEPUTY DIRECTOR(EDUCATION),
OFFICE OF THE DEPUTY DIRECTOR(EDUCATION)
THIRUVANANTHAPURAM-695001.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER
ATTINGAL.**
- 5. THE MANAGER,
SREE NARAYANA VILASAM HIGHER SECONDARY SCHOOL(SNV HIGHER
SECONDARY SCHOOL)
NEDUNGANDA, VARKALA.**

R1-R4 BY SRI M.J.RAJASREE, SENIOR GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE APPROVED APPOINTMENT ORDER DATED 4/8/2000 ISSUED BY
RESPONDENT NO.5 AND APPROVED BY RESPONDENT NO.4
- P2: COPY OF THE ORDER OF APPROVAL DATED 19/2/2007 ISSUED BY
RESPONDENT NO.4
- P3: COPY OF THE APPROVED APPOINTMENT ORDER DATED 23.6.2003 TO
16/10/2003 ISSUED BY RESPONDENT NO.5 AND APPROVED BY RESPONDENT
NO.4
- P4: COPY OF THE APPROVED APPOINTMENT ORDER DATED 27/11/2003 ISSUED
BY RESPONDENT NO.5 AND APPROVED BY RESPONDENT NO.4
- P5: COPY OF THE REPRESENTATION DATED 1/6/2015 SUBMITTED TO THE 5TH
RESPONDENT
- P6: COPY OF THE REPRESENTATION DATED 1/6/2015 SUBMITTED TO THE 4TH
RESPONDENT
- P7: COPY OF THE REPRESENTATION DATED 15/7/2015 SUBMITTED BEFORE
RESPONDENT NO.3.

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.24744 of 2015

Dated this the 13th day of August, 2015

JUDGMENT

According to the petitioner, she has got approved service both in the posts of Upper Primary School Assistant and High School Assistant (English) as evidenced by Exts.P1 to P4 approval orders issued by the District Educational Officer, the 4th respondent herein. So much so, she has become a qualified Rule 51A claimant for the post of Upper Primary School Assistant and High School Assistant in the light of the provisions contained in Rule 51A Chapter XIVA KER as amended by Government Order bearing GO(P) No.187/05/G.Edn. dated 17.06.2005 published in Gazette dated 25.06.2005. As on 31.03.2015, two regular retirement vacancies of High School Assistants had arisen in the school and going by the provisions contained in the above rule, the 5th respondent was bound in law to re-appoint the petitioner in the vacancy of High School Assistant (English) with effect from 01.06.2015 onwards, who was retrenched from service on termination of vacancy. The petitioner would contend that,

despite repeated request as evidenced by Exts.P5 and P6, the 5th respondent has not so far re-appointed her and hence, she is before this Court in this writ petition seeking the following reliefs:

- i) To issue a writ in the nature of mandamus or any other appropriate order directing respondent Nos.3 and 4 to issue appropriate direction to respondent No.5 to re-appoint the petitioner as High School Assistant (English) in SNV Higher Secondary School, Nedunganda in recognition of her preferential claim under Rule 51A Chapter XIVA KER in the retirement vacancy that had arisen with effect from 01.06.2015 within such time as this Hon'ble Court may deem fit and proper in the interest of justice.
- ii) To issue a writ in the nature of mandamus or any other appropriate writ or order directing respondent No.3 to consider and pass final orders on Ext.P7 representation under Rule 7 Chapter III KER with notice and opportunity of hearing to the petitioner within such time as this Hon'ble Court may deem fit and proper in the interest of justice and ;
- iii) To issue a writ in the nature of mandamus or any other appropriate writ or order directing respondent No.4 to initiate appropriate action on Ext.P6 representation so as to see that the preferential right of the petitioner under Rule 51A Chapter XIVA KER is recognized by respondent No.5 in the matter of filling up of the retirement vacancy of High School

Assistant (English) existing in the school with effect from 01.06.2015 within such time as this Hon'ble Court may deem fit and proper in the interest of justice."

2. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

3. Considering the fact that Ext.P7 representation is pending consideration before the 3rd respondent, this writ petition is disposed of directing the 3rd respondent to consider and pass appropriate orders on Ext.P7 representation, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of a certified copy of this judgment, with notice to the petitioner and also to the 5th respondent.

It is made clear that this Court has not expressed anything on the merits of the allegations made in Ext.P7 representation and it is for the 3rd respondent to take appropriate decision thereof, strictly in accordance with law.

SD/-
ANIL K. NARENDRAN,
JUDGE