

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 30284 of 2009 (E)

PETITIONER:

**V.K.LALITHA, AGED 50 YEARS, D/O. KRISHNAN,
PART-TIME PHYSICAL EDUCATION TEACHER
C.M.S.U.P. SCHOOL, TALIKULAM
(RESIDING AT VALLUKKATTIL HOUSE, P.O.MANALUR
THRISSUR-686 617).**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMZA**

RESPONDENTS:

- 1. THE STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.**
- 3. THE ASSISTANT EDUCATIONAL OFFICER,
VALAPPAD, THRISSUR DISTRICT.**

R1 TO 3 BY GOVERNMENT PLEADER SRI. S. JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE STAFF FIXATION ORDER NO.G/2160/09 OF THE ASSISTANT EDUCATIONAL OFFICER
- P2 : TRUE COPY OF THE ORDER NO.49188/K1/97/G.EDN. OF THE GOVERNMENT
- P3 : TRUE COPY OF THE G.O. (RT) NO.3310/2004/G.EDN OF GOVERNMENT
- P4 : TRUE COPY OF THE G.O.(P) NO.5664/2008/G.EDN OF GOVERNMENT
- P5 : TRUE COPY OF THE G.O. (RT) NO.2102/2009/G.EDN OF GOVERNMENT
- P6 : TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.34181/2006-T
- P7 : TRUE COPY OF THE LETTER NO.44346/K1/2007/G.EDN OF GOVERNMENT
- P8 : TRUE COPY OF THE EXTRACT OF THE G.O.(P) NO.145/2006/FIN OF THE GOVERNMENT

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 30284 of 2009 (E)

Dated this the 3rd day of September, 2015

J U D G M E N T

The petitioner, a Part-Time Physical Education Teacher, is aggrieved by the non-regularization of her service and conversion to full-time, despite similarly placed persons having been granted the same. The petitioner is said to have been appointed as a Part-Time Physical Education Teacher in the C.M.S. U.P. School, Talikulam on 18.7.1983. The petitioner continued as a part-time teacher and sought for conversion as a full-time teacher, based on G.O.(Ms.) No.62/73/G.Edn. dated 2.5.1973.

2. Admittedly, the said Government Order was with respect to language teachers, who were appointed as part-time teachers and continued consecutively for five years. The Government, by Ext.P2, rejected the claim finding that the Government Order would not be applicable to Part-Time Physical Education Teachers. Ext.P2 was not

challenged by the petitioner.

3. Subsequently, in the year 2009-2010, by Ext.P1 Staff Fixation Order, the Assistant Educational Officer, Valapad, directed the petitioner to be continued on a clubbing arrangement with G.M. U.P.S., Chettuvai. The A.E.O. also affirmed the fact that the petitioner had been continued in service as a Part-Time Physical Education Teacher from 18.7.1983 onwards. It was in such circumstance, that the petitioner had filed the above writ petition producing Exts.P3 to P6 alleging discrimination.

4. Ext.P3 is an order in the case of a Drawing Teacher who was granted regularization and Exts.P4 and P5 are with respect to Physical Education Teachers who were continued as part-time for long. Such regularizations were taken note of by this Court in Ext.P6 judgment, which writ petition was filed by other similarly placed Part-Time Physical Education Teachers. This Court found that the regularization of service as full-time teacher with respect

to Part-Time Physical Education Teachers itself was not a solitary instance to be treated as a special case. Therein, it was noticed that the petitioners had produced six orders, covering several Part-Time Physical Education Teachers, in which regularization was granted. The contention with respect to irregular regularization was brushed aside on the ground that it was not in an exceptional case and several similarly situated teachers were granted the benefit, while others were not granted the same. It was in such circumstance that the benefit was directed to be granted to the petitioners in Ext.P6 also.

5. In such circumstance, it is only proper that the petitioner herein also be granted the very same relief. However, it is to be noticed that the petitioner's claim for regularization was rejected as early as on 14.10.1997, against which no proceedings were taken by the petitioner. The petitioner approached this Court with the above writ petition only in the year 2009, when the Staff Fixation

Order of that year allowed the petitioner to be continued, clubbing her services to another school, namely G.M. U.P.S., Chettuai. Hence, at least from 2009-2010 onwards if the petitioner has been continued as a full-time teacher, having taken more than 15 periods, with the clubbing arrangement, the petitioner shall be conferred with the said benefit. In such circumstance, the petitioner is entitled to be regularized from 2009-2010 and the petitioner shall be granted salary in the scale applicable to Full-Time Physical Education Teachers from 2009-2010 onwards on verification of her claim as directed above.

The writ petition would stand partly allowed, directing the Government to pass orders as directed herein above.

Sd/-
K.VINOD CHANDRAN,
JUDGE