

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C) .No. 27059 of 2014 (F)

PETITIONER(S) :

BEENA P.
H.S.A. (SOCIAL SCIENCE)
MUSLIM HIGH SCHOOL PUDUNAGARAM, PALAKKAD.

BY ADV. SRI.P.R.SHAJI

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY
GENERAL EDUCATIONAL DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.695 001

2. DISTRICT EDUCATIONAL OFFICER PALAKKAD.678001

3. THE MANAGER
MUSLIM HIGH SCHOOL PUDUNAGARAM, PALAKKAD DISTRICT.678001

4. SMT.SINDHI.M.A.
H.S.A. (MATHEMATICS), MUSLIM HIGH SCHOOL PUDUNAGARAM
PALAKKAD DISTRICT.678002

Addl.5. THE DIRECTOR OF PUBLIC INSTRUCTIONS, JAGATHY,
THIRUVANANTHAPURAM-695 014.
IS IMPEADED AS PER ORDER DTD 16.12.2014 IN I.A.NO.17244 OF 2014.

R BY GOVERNMENT PLEADER: SRI M A FAYAZ, SR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT-P1: A TRUE COPY FO THE APPROVED SENIORITY LIST OF THE TEACHING STAFF OF THE THIRD RESPONDENT SCHOOL AS 02.05.2013.

EXHIBIT-P2:A TRUE COPY OF THE STAFF FIXATION ORDER DATED 15.07.2014.

EXHIBIT-P3: TRUE COPY OF THE SENIORITY LIST FOR THE YEAR 2014-2015, PUBLISHED ALONG WITH EXHIBIT-P2 PROCEEDINGS.

EXHIBIT-P4: A TRUE COPY OF THE REPRESENTATION DATED 04.09.2014, SUBMITTED TO THE SECOND RESPONDENT.

EXHIBIT-P4(A): A TRUE COPY OF THE POSTAL DISPATCH RECEIPT AND RECEIPT OF ACKNOWLEDGEMENT DUE, ACKNOWLEDGING THE RECEIPT OF THE REPRESENTATION BY THE 2ND RESPONDENT.

EXHIBIT P5: A TRUE COPY OF REVISION FILED BEFORE the DIRECTOR OF PUBLIC INSTRUCTIONS

RESPONDENT(S) ' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.27059 of 2014
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Dated this the 07th day of January, 2015

JUDGMENT

Petitioner was initially appointed as Upper Primary School Assistant in the third respondent school. Petitioner is now working as H.S.A (Social Science) in the retirement vacancy of High School Assistant (Social Science) that arose on 31.03.2014. Petitioner was promoted with effect from 02.06.2014. Ext.P1 is the seniority list. Petitioner would submit that she is the senior most qualified hand. Petitioner submits that as per Staff Fixation Order for the year 2014-2015, the total number of posts in Social Science is six. It is further submitted that at present there are only five teachers in the above post. There are six posts in Maths, seven teachers are there. The 4th respondent, Sindhu is considered as an excess teacher in Maths. Petitioner submits that in Ext.P2 Staff Fixation Order, taking note of the fact that there are only five teachers in Social Science as against six vacancies, accommodated Sindhu in the dearth vacancy of H.S.A (Social Science) without approving the appointment of petitioner as H.S.A (Social Science). Accordingly, petitioner's appointment as H.S.A (Social Science) is declined. Petitioner seems to have approached the Deputy Director, Educational District, Palakkad by Ext.P5. Petitioner submits that there are certain

anomalies in staff fixation and consequently petitioner has been declined her appointment in the H.S.A (Social Science).

2. Learned Government Pleader submits that petitioner has an alternate remedy before the Director of Public Instructions under chapter 23 rule 12E(3) of the Kerala Education Rules and petitioner without availing that remedy cannot approach this Court.

3. I am of the view, essentially this issue is relating to the staff fixation made in Ext.P2. Therefore, that can only be corrected in terms of chapter 23 rule 12E(3) of the Kerala Education Rules. Therefore petitioner shall approach the Director of Public Instructions for redressal of her grievance. Petitioner submits that she has already approached the Director of Public Instructions by filing revision on 21.11.2014 and which was received by the DPI on 01.12.2014. In view of the above, the Director of Public Instructions shall consider the above revision after hearing the petitioner and the 4th respondent including Manager within a period of two months. Petitioner shall produce copy of the Writ Petition along with this judgment.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.