

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 27489 of 2014 (I)

PETITIONER(S):

SHEELA B AGED 55 YEARS
W/P. SIVAPRASAD, HEADMISTRESS
GRAMODHARANA TRUST HIGH SCHOOL, MUKKATHALA
KOLLAM DISTRICT.

BY ADVS.SMT.ANU SIVARAMAN
SMT.A.RAJESWARI

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION
KOLLAM.

3. THE DISTRICT EDUCATIONAL OFFICER
KOLLAM.

4. THE DISTRICT EDUCATIONAL OFFICER
PALAKKAD.

R3,R4 BY ADV. GOVERNMENT PLEADER: SMT LOWSY A

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1 - TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE MEDICAL BOARD, DISTRICT HOSPITAL, PALAKKAD DT. 07.4.04.

EXT P2 - TRUE COPY OF THE APPLICATION FOR LEAVE SUBMITTED BY THE PETITIONER BEFORE THE EDUCATION DEPARTMENT DT. 14.3.90.

EXT P3 - TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY DR. G. RAJENDRAN, SGM AYURVEDIC SPECIALITY HOSPITAL DT. 14.3.90.

EXT P4 - TRUE COPY OF G.O(P) NO. 333/11/FIN DT. 06.8.11 ISSUED BY THE FINANCE (RULES B) DEPARTMENT.

EXT P5 - TRUE COPY OF LETTER NO. B4/6176/12 DT. 30.10.13 SENT BY THE DISTRICT EDUCATIONAL OFFICER, KOLLAM TO HEADMISTRESS, M.G.T HIGH SCHOOL MUKHATHALA.

EXT P5(A) - TRUE ENGLISH TRANSLATION OF EXT. P5.

EXT P6 - TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE MINISTER FOR SOCIAL WELFARE, SRI.M.K.MUNEER DT. 30.10.13.

EXT P7 - TRUE COPY OF G.O(RT) NO. 4526/2013/G.EDN DT. 26.10.13 ISSUED BY GENERAL EDUCATION (R) DEPARTMENT.

EXT P8 - TRUE COPY OF LETTER NO. 68661/A3/2013/G.E.D DT. 07.10.14 SENT BY THE SECRETARY, GENERAL EDUCATION (A) DEPART. TO THE PETITIONER.

EXT P8(A) - TRUE ENGLISH TRANSLATION OF EXT. P8.

RESPONDENT(S) ' EXHIBITS:

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.27489 of 2014
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Dated this the 28th day of January, 2015

JUDGMENT

Petitioner is the Headmistress of an Aided High School in Kollam district. She entered in service as High School Assistant (Social Science). She had a congenitally handicapped child suffering from cerebral palsy. On account of attention required to the child, she had availed 8 days leave in 1990 for the treatment of her son. This period has been reckoned as duty till 2011. However, objection has been raised in 2011 and steps have been taken to re-fix the pay of petitioner after 13 years. Petitioner moved the Government for a special order in relaxation of the Rules for treating the 8 days leave without allowance availed by her as medical leave with medical certificate. Petitioner relies on Government orders produced as Exts.P4 and P7. In Ext.P4, Government have introduced Special Casual Leave for a period upto 15 days in a year to the employees having physically/mentally challenged children. Petitioner highlighted her grievance before the Honourable Minister for Social Welfare produced as Ext.P6. Thereafter, the same was referred to the Government. By Ext.P8, an order has

been passed by the Government stating that leave on loss of pay from 14.03.1990 to 21.03.1990 cannot be treated on the strength of medical certificate. Petitioner submits that this order has been passed overlooking Exts.P4 and P7.

2. Considering the nature of reliefs sought by the petitioner, I am of the view, the matter requires reconsideration in terms of Exts.P4 and P7 Government Orders. Therefore, after affording an opportunity of hearing to the petitioner, necessary order shall be passed by the first respondent within a period of two months. Petitioner shall make appropriate representation and also produce copy of the Writ Petition along with the judgment for compliance.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.