

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 27503 of 2014 (K)

PETITIONER(S):

- 1. SUBAIR, AGED 34 YEARS
KIZHAKKEPARAMBIL, JUNIOR LANGUAGE TEACHER (HINDI)
MMETHS, MELMURI, MELMURI.P.O.-676517.**
- 2. MOOSA MUSTHAJIB, AGED 32 YEARS
H.S.A. (DRAWING), MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 3. RESITINA.K.A., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 4. KHALID.K., AGED 32 YEARS
H.S.A.(PHYSICAL SCIENCE), MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 5. MUNEER.C.T., AGED 33 YEARS
H.S.A.(PET), MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 6. SAIFUDHEEN.T.M., AGED 32 YEARS
JUNIOR LANGUAGE TEACHER (HINDI), MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 7. RAMLA.T.P., AGED 32 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.**
- 8. UMMU HABEEBA, AGED 33 YEARS
JUNIOR LANGUAGE TEACHER (ARABIC), MMETHS, MELMURI
MELMURI.P.O.-676517.**

CONTD .. 2..

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9. SREERANJINI.K.R., AGED 34 YEARS
H.S.A (NEEDLE), MMETHS, MELMURI
MELMURI.P.O.-676517.
10. SUVARNA.P., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
11. JASEENA BACKER.P., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
12. ASHIQ.P., AGED 34 YEARS
UPSA (PET), MMETHS, MELMURI
MELMURI.P.O.-676517.
13. UMMER.C.K., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
14. SHAMEENA.P., AGED 34 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
15. SHARAFUNNEESA.K.M., AGED 32 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
16. SINDHU SUNDAR.T.P., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
17. SHAMEEMA.K., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
18. MUHAMMED YONUS.N.K., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
19. FEBIN.K., AGED 32 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.

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20. DEEPA.M., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
21. JAMEELA.V.K., AGED 32 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
22. MUHAMMED ASHRAF.C., AGED 32 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
23. SHABEER.P., AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
24. MOHAMMED SHEREEF.N., AGED 33 YEARS
H.S.A. (ENGLISH), MMETHS, MELMURI
MELMURI.P.O.-676517.
25. CICI JOSEPH, AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
26. NASEERA.O.P., AGED 33 YEARS
H.S.A.(PHYSICAL SCIENCE), UPSA, MMETHS
MELMURI, MELMURI.P.O.-676517.
27. BAVA CHEROOR, AGED 35 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.
28. ABOOBACKER SIDDEQ, AGED 33 YEARS
UPSA, MMETHS, MELMURI
MELMURI.P.O.-676517.

BY ADVS.SRI.V.E.ABDUL GAFOOR
SRI.A.MOHAMMED SAVAD
SRI.C.Y.VINOD KUMAR

WP(C).No. 27503 of 2014 (K)

RESPONDENT(S):

1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.
2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM-695001.
3. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM. 676 505
4. THE DISTRICT EDUCATIONAL OFFICER,
MALAPPURAM. 676505
5. THE MANAGER,
MMETS, MELMURI, MELMURI.P.O.-676517.

R1-R4 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 27503 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1(A-AB): COPY OF THE ORDER DATED 27.12.11 ISSUED BY DEO
 APPROVING APPOINTMENT OF PETITIONERS.**

**EXT.P2: COPY OF THE GOVERNMENT LETTER
 NO.53646/E2/12/G.EDN. DATED 24.3.14.**

RESPONDENT(S)' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.27503 of 2014 - K

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Dated this the 15th day of October, 2015

J U D G M E N T

The petitioners are before this Court claiming approval of their appointments from the respective date of their initial appointments.

2. The appointments are evidenced by Exhibit P1 series, which were approved by the District Educational Officer [for brevity "DEO"], by virtue of G.O(P) No. 199/2011/G.Edn. dated 01.10.2008 and Circular No.H2/35970/DPI dated 13.12.2011; but only w.e.f 01.06.2011. By Ext.P2, the revision filed before the Government for getting the approval from the date of their respective appointments were rejected.

3. In any event, even if the school is liable to have appointed a protected hand, the issue with respect to such appointment was considered elaborately in **State of Kerala v. Nadeera [2013 (2) KLT 88]**, wherein it was clearly found that the Circulars of 2002 and 2006 mandated that list of protected

hands be forwarded by the AEO concerned to the DDE, which lists should be made available to the Managers and in such circumstance, the Managers would have no choice or option but to appoint such protected teachers. Even the schools which are presumed to be new establishments or newly upgraded, who had executed such agreements, would not have any information as to the protected teachers; which information would be only available with the Educational Authorities under the KER. It was categorically held that, it was mandatory on the part of the Department to maintain such list and the management could be found fault with only if such lists were forwarded to such managements and there is an appointment made in violation of the stipulation in the Circulars. It is to be emphasized that the Division Bench had specifically held that there should be intimation of such list of protected teachers to the Managers of the Schools; and the mere existence of the list would not persuade this Court to deviate from the facts and law as declared in **Nadeera** (supra).

4. It is also pertinent that on a similar question, where there was no protected teacher available in the sub district, a learned Single Judge of this Court in **Moosakutty v. D.E.O., Wandoor [2009 (3) KLT 863]** allowed the claim of the teacher and directed grant of approval of appointment.

5. In the circumstances, the petitioners are entitled to succeed and the writ petition is allowed, setting aside Exhibit P2 order. Exhibit P1 series orders of the 1st respondent, to be modified granting approval to the petitioner's appointment from the date of their respective appointment. The 1st respondent shall disburse the salary/arrears of salary, if any, within a period of three months from the date of receipt a certified copy of this judgment.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/16 /10 /2015

// true copy //

P.A to Judge