

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 30805 of 2013 (A)

PETITIONER :

**RENNY GEORGE,
NOW WORKING AS HSST MATHEMATICS,
ST.GEORGE H.S.S. MUTHALAKODAM, THODUPUZHA.**

BY ADV. SRI.PAULSON THOMAS

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695001**
- 2. REGIONAL DIRECTOR OF HIGHER SECONDARY EDUCATION,
ERNAKULAM, EDAPPALLY - 682 024.**

R1 & R2 BY GOVERNMENT PLEADER SMT. LOWSY A.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: APPROVAL ORDER OF THE PETITIONER AS HSST (JUNIOR)
FROM 22-11-1999
- EXT.P2: JUDGMENT IN WPC.23415/2007.
- EXT.P3: PROCEEDINGS ISSUED IN COMPLIANCE TO P2 JUDGMENT.
- EXT.P4: PETITIONER'S APPOINTMENT WAS APPROVED AS HSST BY EARLIER
PROCEEDINGS DATED 29-8-2003.
- EXT.P5: STATEMENT OF FIXATION OF PAY IN ACCORDANCE WITH G.O(P)
NO.145/2006/FIN.
- EXT.P6: FIXATION OF PAY IN PURSUANCE TO 2009 PAY REVISION.
- EXT.P7: FORM OF OPTION IN RESPECT OF 2006 PAY REVISION.
- EXT.P8: OPTION IN RESPECT OF 2009 PAY REVISION.
- EXT.P9: OPTION IN RESPECT OF HIGHER GRADE CHANGING THE DUE DATE
FROM 17-7-08 TO 2-11-07.
- EXT.P10: STATEMENT OF FIXATION OF PAY.
- EXT.P11: ORDER TO THAT EFFECT ENDORSED ON THE PROPOSAL TOGETHER
WITH THE PROPOSAL.
- EXT.P11(A): ORDER RETURNING P11 PROPOSAL BY THE RDD.
- EXT.P12: RELEVANT PART OF EXERCISE OF OPTIONS IN PAY REVISION
ORDER 2006
- EXT.P13: RELEVANT PART OF EXERCISE OF OPTIONS IN PAY REVISION
ORDER 2011
- EXT.P14: COPY OF G.O(P)8/2012
- EXT.P15: COPY OF G.O(P)176/2012.
- EXT.P16: COPY OF THE GOVERNMENT ORDER DT 24/7/2014.
- EXT.P17: COPY OF THE ORDER DT 24/9/2014 OF THE RDD.

RESPONDENT(S)' EXHIBITS

:

NIL.

//TRUE COPY//

P.A. TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.30805 of 2013

Dated this the 13th day of March, 2015

J U D G M E N T

The petitioner was appointed as Higher Secondary School Teacher with effect from 22.11.1999 as H.S.S.T. Mathematics at St.Augustine's Higher Secondary School Kalloorkad, now working at St.George HSS Muthalakodam. The petitioner was originally granted approval as per Ext.P1 order as HSST Junior with effect from 22.11.1999. She was granted approval as HSST only with effect from 17.7.2000. As per the direction of this Court in Ext.P2 judgment, Ext.P3 revised approval was given with effect from 22.11.1999 as HSST by order dated 25.1.2013. The petitioner submits that when the issue was settled by Ext.P3 revised approval order, the cut of date fixed in the pay revision orders for filing of options and re-options was over and the Department took the stand that the re-option is not permissible. Aggrieved by the stand of the Department, this writ petition has been filed.

2. During the pendency of this writ petition, Ext.P16

order was passed by the Government. It is stated that the petitioner is entitled for re-fixation including higher grade from an earlier date. Thus, the pay was re-fixed and higher grade was sanctioned reckoning the HSST service with effect from 22.11.1999. The proceedings of Regional Deputy Director it was mentioned that the petitioner is eligible for arrears only with effect from 28.1.2013, the date of filing of re-option.

3. The petitioner challenges the above prospective grant of pay revision. I am of the view that this is against the spirit of Government Order. The Regional Deputy Director cannot restrict the arrears from the date of re-option. This has to be granted from the effect of re-option onwards. The petitioner relies on Clause 26(j) of Ext.P13, which reads thus:

“In cases, where persons promoted after the date of pay revision, have been given retrospective promotion with effect from a date in the pre-revision period, they will

exercise option in respect of the revised scale of the post within three months from the date of orders sanctioning such promotion. They will be eligible for arrears if any, as per rules”

4. Considering that fact that the petitioner has exercised re-option within three months from the date of orders sanctioning such promotion, the petitioner is eligible for arrears. Therefore, the arrears shall be released to the petitioner within a period of three months.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/