

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 31239 of 2011 (D)

PETITIONER(S):

SUMAJA .P., W/O.DIVAKARAN NAIR,
AGED 49 YEARS, L.P.S.A., P.K.NAIR MEMORIAL
JUNIOR BASIC SCHOOL, KANNANPARIYARAM,
MANKARA P.O., PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN.

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (B) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
2. THE DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD, PIN-678 001.
3. THE ASSISTANT EDUCATIONAL OFFICER,
PARLI, PALAKKAD, PIN-678 612.
4. THE MANAGER, P.K. NAIR MEMORIAL JUNIOR
BASIC SCHOOL, KANNANPARIYRAM,
MANKARA P.O., PALAKKAD-678 614.

* ADDL. R5 IMPEADED

5. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
TRIVANDRUM.

* ADDL. R5 IS IMPEADED AS PER ORDER IN I.A. NO.20206/2011
DATED 16/12/2011.

R1 TO R3 & ADDL. R5 BY GOVT. PLEADER SMT.LOWSY. A.
R4 BY ADVS. SRI.SUNIL NAIR PALAKKAT,
SRI.K.N.ABHILASH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE APPOINTMENT ORDER DATED 05/06/1995
 OF THE PETITIONER.
- EXT.P2 COPY OF THE JUDGMENT DATED 06/04/1998 IN O.P. NO.3013/1996.
- EXT.P3 COPY OF THE MARK LIST OF THE PETITIONER FOR THE
 B.ED. DEGREE EXAMINATION OF APRIL 1993.
- EXT.P4 COPY OF THE ORDER DATED 23/04/2011 OF THE
 1ST RESPONDENT.
- EXT.P5 COPY OF THE G.O.(P) NO.199/2011/G.EDN.
- EXT.P6 COPY OF THE ORDER DATED 04/11/2011 OF THE 3RD RESPONDENT.
- EXT.P7 COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE
 THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.31239 of 2011

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner was appointed as LPSA in an aided school with effect from 5.6.1995. The approval of appointment was rejected by the authorities. The reason for non-approval is that the petitioner was not qualified for appointment as LPSA on the said date.

2. The petitioner passed B.Ed Degree from the Calicut University in the examination held on April, 1993. However, the result was withheld for the reason that her B.A. degree was not recognized by the Calicut University. The petitioner possessed the B.A. degree certificate issued by the Osmania University and B.Ed issued by the University of Calicut. Thereafter, through a legal battle, the result was published. Then, the mark list was issued on 18.9.1999. The

qualification of a candidate has to be determined with reference to the date of occurrence of the vacancy. Admittedly, the petitioner appeared for the examination in the year 1993 and the results also have been published. According to the University, the petitioner did not satisfy the eligibility to pursue B.Ed. Programme. That disability has been removed by consequent upon the direction of this Court and also by directing the University to publish the results. Consequent upon the direction, the petitioner's results have been released. The date of release of the results is not the factor to reckon the date of qualification. On the date of occurrence of vacancy, if the petitioner is qualified, necessarily, the petitioner has to be considered for the vacancy.

In view of the facts and circumstances, Exts.P4 and P6 orders are set aside. There shall be a direction to the

respondents to consider the petitioner's approval as he was qualified as on the date of the occurrence of the vacancy. The Assistant Educational Officer shall take a necessary steps to approve the appointment within a period of four weeks and consequent upon the approval, necessary monetary benefits shall be released to the petitioner. The arrears shall be paid within a period of three months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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