

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28406 of 2015 (A)

PETITIONER(S):

**V.JOLLY JOSEPH,
AGED 53 YEARS, WIFE OF T.J. OUSEPH,
HIGH SCHOOL ASSISTANT (SOCIAL SCIENCE),
ST. JOSEPH HIGHER SECONDARY SCHOOL,
PAVARATTY, CHAVAKKAD, THRISSUR DISTRICT.**

**BY ADVS.SRI.V.A.MUHAMMED,
SRI.V.RAJASEKHARAN NAIR.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM-695 014.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR AT AYYANTHOLE-680 003.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
CHAVAKKAD, THRISSUR DISTRICT-680 506.**
- 5. THE CORPORATE MANAGER,
DEVAMATHA CORPORATE EDUCATIONAL AGENCY OF
CMI SCHOOLS, DEVAMATHA PROVINCIAL HOUSE,
THRISSUR-680 022.**

R1 TO R4 BY SR. GOVT. PLEADER SMT.M.J. RAJASREE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE OPTION OF THE PETITIONER DATED 15/02/2012.
- EXT.P2 COPY OF THE FIXATION STATEMENT DATED 15/02/2012 OF THE PETITIONER.
- EXT.P3 COPY OF THE FIXATION STATEMENT OF THE PETITIONER.
- EXT.P4 COPY OF THE AUDIT OBJECTION DATED 04/04/2015.
- EXT.P5 COPY OF THE G.O.(P) NO.246/2012/G.EDN. DATED 28/07/2012 OF THE GOVERNMENT.
- EXT.P6 COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT DATED 04/09/2015.
- EXT.P7 COPY OF THE APPOINTMENT ORDER DATED 01/06/2011 AND APPROVAL THEREON.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ANIL K.NARENDRA, J.

W.P.(C)No.28406 of 2015

Dated this the 18th day of September, 2015

JUDGMENT

The petitioner, who is working as HSA (Social Science) in St.Joseph's Higher Secondary School, Pavaratty, Thrissur, has filed this Writ Petition seeking a writ of certiorari to quash Ext.P4 audit objection and seeking a writ of mandamus commanding the respondents to refrain from recovering any amount pursuant to Ext.P4. The petitioner has also sought for a writ of mandamus commanding the 1st respondent to effectively consider and pass appropriate orders on Ext.P6 revision petition after affording an opportunity of being heard to the petitioner, within a time limit, and in the meantime to keep Ext.P4 in abeyance.

2. Going by the averments in the Writ Petition, based on Ext.P1 option exercised by the petitioner on 15.2.2015 her pay was fixed at ₹15,780/- in the HSA scale of ₹14,620-25,280 with effect from 1.9.2011 as per Exts.P2 and P3 orders. But in Ext.P4 audit objection, the Deputy Director of Education objected the pay fixation made in Ext.P3 on the ground that such an option is belated since as per the Rules the option will have to be filed within one month from

the date of promotion. Since the petitioner has not filed the option within the stipulated time, she is entitled only for fixation under Para (a) of Rule 28A Part I KSR and therefore she was directed to refund the excess pay drawn from 1.9.2011 onwards.

3. The petitioner would submit that, by Ext.P5 Government Order dated 28.7.2012 the Government have ordered that in the case of promotion of Aided School Teachers as Headmaster, the option need be submitted within one month from the date of approval of appointment as Headmaster by the Educational Officer as the promotion will become effective only on its approval by the Educational Officer. Therefore the petitioner would contend that the audit objection raised in Ext.P4 cannot be sustained. It was in such circumstances, she has submitted Ext.P6 Revision before the Government.

4. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

5. Considering the fact that the petitioner has already submitted Ext.P6 revision before the Government, I deem it appropriate to dispose of this Writ Petition, without going into the

merits of the contentions raised by the petitioner, directing the 1st respondent to consider and pass appropriate orders on Ext.P6 revision, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a certified copy of this judgment, with notice to the petitioner.

Till such a decision is taken, all recovery proceedings pursuant to Ext.P4 Audit Objection shall be kept in abeyance.

Sd/-

ANIL K.NARENDRAN, JUDGE

skj