

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).NO. 32727 OF 2011 (M)

PETITIONER(S) :

T.ABDUL SHUKOOR,
HIGH SCHOOL ASSISTANT (SOCIAL STUDIES)
S.M.M.H.S.SCHOOL, RAYIRIMANGALAM, (VIA) TIRUR
MALAPPURAM DIST

BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENT(S) :

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT ANNEX
THIRUVANANTHAPURAM-695001

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM-695014

3. THE DEPUT DIRECTOR OF EDUCATION,
DOWN HILL, MALAPPURAM-676519

4. THE DISTRICT EDUCATIONAL OFFICER,
TIRUR, MALAPPURAM DISTRICT-676101

5. THE MANAGER,
S.M.M.H.S.SCHOOL, RAYIRIMANGALAM, TIRUR
MALAPPURAM DISTRICT-676302

BY GOVERNMENT PLEADER SRI.RINNY STEPHEN CHAMAPARAMBIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 32727 OF 2011 (M)

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1:- TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DTD 21/7/2004 AND THE APPROVAL THEREOF DTD 10/11/2006
- EXT.P2:- TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DTD 1/6/2009
- EXT.P3:- TRUE COPY OF THE ORDER NO.D.DIS.BI/4811/09 OF THE
DIS.EDL.OFFICER,DTD 22/2/2010
- EXT.P4:- TRUE COPY OF THE ORDER NO.K.DIS B4/7858/10 OF THE DEPUTY
DIRECTOR DTD 31/7/2010
- EXT.P5:- TRUE COPY OF THE ORDER NO EM(2)65215/2010/DPI/K/DIS.OF
THE 2ND RESPONDENT DTD 18/2/2011
- EXT.P6:- TRUE COPY OF THE ORDER NO.32597/A2/2011/G.EDN.OF THE
GOVERNMENT DTD 16/8/2011
- EXT.P7:- TRUE COPY OF THE G.O.(RT)NO.622/11/G.EDN OF THE
GOVERNMENT DTD 14/2/2011
- EXT.P8:- TRUE COPY OF THE G.O(P)NO.205/2011/G.EDN.OF THE
GOVERNMENT ALONG THE RELEVANT PAGE OF THE LIST DTD
7/10/2011.
- EXT.P9:- TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.4643 OF 2012-E
DATED 18.2.2015

RESPONDENTS' EXHIBITS :NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.32727 of 2011

.....
Dated this the 15th day of June, 2015

J U D G M E N T

The petitioner, who was appointed as H.S.A Social Studies in the School under the management of the 5th respondent, is aggrieved by Ext.P3 order, by which the appointment of the petitioner to a vacancy in the School with effect from 01.06.2009 was not approved stating non-compliance with the requirements of G.O.(P)10/10/G.Edn.dated 12.01.2010. Against Ext.P3 order of the District Educational Officer, although the petitioner had moved an appeal before the Deputy Director of Education and a further revision before the Director of Public Instruction, the said authorities confirmed the order of the District Educational Officer. A further revision before the Government also did not yield any positive result, and by Ext.P6 order, the Government also rejected the revision petition preferred by the Manager.

Counsel for the petitioner would rely on Ext.P9 judgment of this Court, where, in similar circumstances, considering the case of persons who were appointed prior to the G.O.(P) No.10/10/G.Edn.dated 12.01.2010, it was held that the Government Order imposing conditions on the Manager to execute the bond can apply only to vacancies that arose subsequent to the date of the

G.O., and in cases where the appointment was prior to the date of the G.O, the manager was to be treated as having executed the bond and undertaking, to appoint protected teachers, and the approval of the persons appointed prior to the date of the Government Order was to be approved by the education authority with effect from the date of appointment, and consequent salary and other allowances paid to them. The case of the petitioner being identical to that of the persons dealt with in Ext.P9 judgment, I dispose the writ petition, in the light of Ext.P9 judgment, by directing the respondents to approve the appointment of the petitioner with effect from the date of his appointment, and to disburse the salary and other allowances due to him, within a period of three months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

