

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 30540 of 2014 (N)

PETITIONER(S):

ANU JOSEPH,
D/O.JOSEPH HENRY, VARADANAM, TC 34/1764(2),
VALLAKKADAVU P.O., VALIATHURA,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.P.N.MOHANAN
SRI.C.P.SABARI

RESPONDENT(S):

1. DISTRICT EDUCATIONAL OFFICER,
THIRUVANANTHAPURAM-695001.
2. DEPUTY DIRECTOR (EDUCATION),
THIRUVANANTHAPURAM-695001.
3. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695001.
4. GOVERNMENT OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
5. THE MANAGER,
STANTONY'S HIGHER SECONDARY SCHOOL, VALIATHURA,
THIRUVANANTHAPURAM-695008.

R1-R4 BY GOVERNMENT PLEADER SRI.P.PADMALAYAN
R5 BY ADV. SRI.K.N.AJAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: A TRUE COPY OF THE LETTER DATED 17.6.2008 OF THE FIRST RESPONDENT.**
- EXHIBIT-P2: A TRUE COPY OF THE ORDER DATED 6.2.2009 OF THE DEPUTY DIRECTOR.**
- EXHIBIT-P3: A TRUE COPY OF THE ORDER DATED 19.8.2009 OF THE DPI.**
- EXHIBIT-P4: A TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE GOVERNMENT.**
- EXHIBIT-P5: A TRUE COPY OF THE ORDER DATED 10.9.2014 OF THE GOVERNMENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.M.SHAFIQUE, J

W.P.C.No.30540 of 2014

Dated this the 19th day of November 2015

J U D G M E N T

Petitioner challenges Exts.P1, P2, P3 and P5 by which the request of the petitioner for approval of her appointment has been rejected on the ground that there is no sanctioned post.

2. The short facts involved in the writ petition would disclose that the petitioner was appointed in the retirement vacancy of one Smt.Maria Lilly, H.S.A (Malayalam) on 02/06/2007. The proposal for appointment of the petitioner was submitted to the 1st respondent/District Educational Officer. Since the 1st respondent did not take any decision within the specified time, petitioner approached this Court by filing O.P.No.8512/1996, in which a direction had been issued to the Manager to consider the request of the petitioner. The appointment of the petitioner was not approved and an appeal was filed by the Manager before the Deputy Director (Education), who rejected the appeal on the ground that there is no sanctioned post. A revision was filed before the 3rd respondent, Director of Public Instructions, which was also rejected on similar grounds. Matter was taken up before

the Government. Government also rejected the same by Ext.P5 on the ground that there is no sanctioned post.

3. The main contention urged by the petitioner is that during the academic year 2006-2007, there were three regular posts of H.S.A. (Malayalam) which were sanctioned posts. It has to continue till 14th of July of the succeeding year. It was, due to the retirement of the person that the petitioner was appointed on 02/06/2007. The vacancy due to retirement arose on 31/03/2007. The contention is that as per Rule 8(2) of Chapter XIV of the Kerala Educational Rules, District Educational Officer is bound to approve appointment within 30 days. The appointment was rejected after one year on the ground that there is no sanctioned post. It is submitted that if the petitioner's appointment was approved as on 02/06/2007, there was, in fact, a sanctioned post.

4. Counter affidavit has been filed by the 1st respondent inter alia stating that as per the staff fixation for 2007-2008, one post of H.S.A (Malayalam) was reduced for want of pupil strength and there was no post to accommodate the petitioner and therefore it was rejected in terms of Ext.P1. Respondent also has narrated the reason why the staff strength has been reduced.

5. Having regard to the aforesaid factual situation that there was no sanctioned post for the said academic year, I do not think that respondents committed any error in rejecting the approval of the petitioner.

6. Learned counsel for the petitioner would submit that the inspection was conducted on 03/12/2007. The delay in conducting the inspection may not give any right to the petitioner as the staff fixation has been done taking into account the pupil strength of the academic year. The fact that the petitioner's appointment was not approved, by itself, would indicate that she was not entitled for the approval unless staff fixation was actually carried out.

Under such circumstances, I do not think that the petitioner is entitled for any relief, as prayed for. Accordingly, the writ petition is dismissed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr