

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C) .No. 34123 of 2008 (K)  
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PETITIONER(S) :  
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U.VAHEEDA,  
W/O.K.M.HAMZA, 46 YEARS, PART-TIME JUNIOR URDU  
TEACHER (PROTECTED), GOVERNMENT U.P.SCHOOL  
VELLIKULANGARA, THRISSUR-680693.

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

RESPONDENT(S) :  
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1. THE STATE OF KERALA, REP. BY THE SECRETARY  
TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT  
SEXCRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION  
JAGATHY, TRIVANDRUM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,  
AYYANTHOLE, THRISSUR.

4. THE ASSISTANT EDUCATIONAL OFFICER  
THRISSUR EAST

5. THE HEADMASTER, G.U.P.SCHOOL,  
VELLIKULANGARA, THRISSUR-680 693.

R,R3 BY ADV. GOVERNMENT PLEADER E.M.ABDULKHADIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kkj

APPENDIX

PETITIONER'S EXHIBITS

- EXT-P1: TRUE COPY OF THE G.O. (MS) NO.62/73/S.EDN OF THE GOVERNMENT
- EXT-P2: TRUE COPY OF THE ORDER NO.D.DIS B/2143/2003 OF THE ASST. EDUCATIONAL OFFICER
- EXT.P3: TRUE COPY OF THE ORDER NO.A5/5313/04 OF THE DEPUTY DIRECTOR OF EDN.
- EXT.P4: TRUE COPY OF THE ORDER NO.G5-16172/07 OF THE DEPUTY DIRECTOR OF EDN.
- EXT.P5: TRUE COPY OF THE ORDER NO.A5-5047/07 OF THE DEPUTY DIRECTOR OF EDN.
- EXT.P6: TRUE COPY OF THE G.O. (MS) NO.193/75/G.EDN OF THE GOVERNMENT
- EXT.P7: TRUE COPY OF THE G.O. (MS) NO.189/82/G.EDN OF THE GOVERNMENT.
- EXT.P8: TRUE COPY OF THE G.O. (MS) NO.11/87/G.EDN OF THE GOVERNMENT
- EXT.P9: TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE GOVERNMENT
- EXT.P10: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN W.P. (C) NO.1993/2008-K
- EXT.P10 (A) : TRUE COPY OF THE COVERING LETTER.
- EXT.P11: TRUE COPY OF THE G.O.RT.NO.4113/08/G.EDN OF THE GOVERNMENT
- EXT.P12: TRUE COPY OF THE REPRESENTATION OF THE PETITOINER
- EXT.P13: TRUE COPY OF THE G.O (MS) NO.474/69/EDN. OF THE GOVERNMENT
- EXT.P14: TRUE COPY OF THE G.O. (RT) NO.3549/07/G.EDN OF THE GOVERNMENT

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

PA TO JUDGE

**K.SURENDRA MOHAN, J.**

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**W.P.(C) No.34123 of 2008-K**  
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**Dated this the 19<sup>th</sup> day of January, 2015**

**J U D G M E N T**

The petitioner is a protected teacher. She was appointed as a part-time Junior Urdu teacher in the P.A.U.P. School, Chemboothara on 15.07.1994. As per Exhibit P1 Government Order dated 02.05.1973, it has been ordered that Part-time language teachers be converted as full time, where a teacher has five years continuous service and has eight periods of work. The petitioner completed five years service on 15.07.1999. Thereupon, extending the benefit of Exhibit P1 Government Order, the petitioner was granted the benefits of a Full time teacher, since she was having 12 periods of work at that time. While so, by Exhibit P2 order dated 09.06.2003, the post of Part-time Junior Urdu Teacher that was available at P.A.U.P.School, Chemboothara was abolished for want of students. The petitioner became an excess hand and was granted the benefit of protection.

W.P.(C) No.34123 of 2008-K

Thereafter, as per Exhibit P3 order she was initially deployed to the G.F.U.P.School, Kadappuram. It has been directed in Exhibit P3 that, her salary would be drawn by the parent school and disbursed to her.

2. Subsequently, as per Exhibit P4 dated 05.07.2007, the petitioner was deployed to G.L.P.School, Pattikkad. Later on by Exhibit P5 dated 03.12.2007, the petitioner was deployed to the G.F.U.P.School, Vellikulangara where she remains posted at present. The complaint of the petitioner is that, upon deployment by Exhibits P3 to P5, the respondents stopped granting her the benefits of a Full-time teacher that she was receiving until then. Thus, the petitioner has been denied the benefits of a Full-time teacher from 15.07.2003 onwards. The petitioner claims that, she is entitled to receive the benefits of a Full-time teacher, in view of Exhibit P1. Though she had preferred Exhibit P9 revision to the Government, the same has been rejected by Exhibit P11 order dated 15.09.2008. This writ petition is filed challenging Exhibit P11.

3. According to the counsel for the petitioner Smt. P.A.Jenzia, as per Exhibit P1 Government Order, the petitioner was granted the benefits of a Full-time Junior Urdu Teacher since she satisfied all the stipulations contained therein. She was also paid all the benefits from 15.07.1999 to 15.07.2003. Thereafter, there is absolutely no justification for denying the said benefits to her. The learned Counsel points out that, as per Exhibit P6 Government Order dated 04.08.1975, even protected teachers had been extended the benefits of Exhibit P1 Government Order. Therefore, the fact that the petitioner is a protected teacher under deployment, does not disentitle her to the benefits of Exhibit P1. The reasoning in Exhibit P11 that, the petitioner had ceased to be entitled to the benefits of Exhibit P1 since she no longer had eight periods of work, according to the counsel, is unsustainable. The above position has been clarified in Exhibit P7 Government Order dated 14.12.1982. Apart from the above, it is pointed out that, by Exhibit P14 order dated 01.08.2007, the

Government had granted similar benefits to a Hindi Teacher in identical circumstances. It is pointed out that, Exhibit P11 in so far as it has denied to the petitioner the benefits granted by Exhibit P4 is also discriminatory and liable to be set aside.

4. The Government Pleader appears for respondents 1 to 4. A counter affidavit has been filed on behalf of the first respondent. The contention of the first respondent is that, since the petitioner does not satisfy the second criterion in Exhibit P1 namely of having the work of eight periods, she is not entitled to the continued benefit of Exhibit P1 after her deployment.

5. Heard. It is not in dispute that, the petitioner had become entitled to the benefits of Exhibit P1 with effect from 15.07.1999. In fact, she was also paid all the benefits as a Full time teacher, for the period from 15.07.1999 to 15.07.2003. It was in the said circumstances that, by Exhibit P2 Staff Fixation Order, the post of Urdu Teacher in P.A.U.P.School, Chemboothara was abolished. Thereupon,

the petitioner became entitled to the benefits of protection. She has also been deployed to various schools by Exhibits P2 and P5. The only question that arises for consideration therefore is whether the petitioner should be denied the benefits of a Full-Time Teacher in accordance with Exhibit P1 for the reason that, she does not have the stipulated workload in the school to which she has been deployed. According to the counsel for the petitioner, it was not due to the fault of the petitioner that she does not have the required workload. There is also absolutely no impediment in posting her to a school with sufficient workload. Therefore, it is contended that, she has been denied the benefits for no fault of hers.

6. A perusal of Exhibit P7 Government Order shows that, the Government have ordered that the benefits of Exhibit P1 Government Order shall be granted where the teacher satisfies the requirement of having 5 years of service. It has been stated in Exhibit P7 that, five years aggregate service is enough for the grant of Full-Time

benefit as per Exhibit P1 Government Order. The above position has been reiterated in Exhibit P8 Government Order dated 07.01.1987 also. A perusal of Exhibit P16 order passed by the first respondent allowing the revision filed by another teacher of the very same school shows that the position clarified by Exhibits P7 and P8 has been accepted by the first respondent in the said case also. Exhibit P11 does not state any reason as to why the benefits of the Government Orders referred to above was denied to the petitioner. The only difference between the incumbent who was the beneficiary of Exhibit P14 and the petitioner is that the said teacher was a Hindi Teacher. The said teacher also did not have the stipulated workload of eight periods. In Exhibit P14, it has been held that, the said person was entitled to all the benefits of a Full-Time Teacher. There is no justification for denying the very same benefits to the petitioner. For the above reasons, it is held that Exhibit P11 is unsustainable.

In the result,

1. This writ petition is allowed. Exhibit P11 is quashed.
2. The petitioner shall be granted the pay and allowances applicable to a Full-time Junior Urdu Teacher for the period from 15.07.2003 onwards. The respondents are directed to pay to the petitioner the said amounts with arrears, as expeditiously as possible and at any rate within a period of two months of the date of receipt of a copy of this judgment.

Sd/-  
**K.SURENDRA MOHAN,**  
**JUDGE**