

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No.30984 of 2014 (W)

PETITIONER:

**BEENA RAJU,W/O.CHACKO RAJU,
KALLUPALATHINKAL HOUSE,
KALLISSERY P.O,CHENGANNOOR,
ALAPPUZHA (HIGH SCHOOL ASSISTANT (HINDI),
N.M.HIGH SCHOOL,KARIAMPLAVE)**

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTYHAPURAM-695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM-695001.**
- 3. THE DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
KANJIRAPPALLY-686507.**
- 4. THE ASSISTANT EDUCATIONAL OFFICER,
OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER,
KARUKACHAL-686540.**
- 5. THE CORPORATE MANAGER,
NOELMEMORIAL CORPORATE SCHOOLS,KUMBANAD P.O,
THIRUVALLA,PATHANAMTHITTA-689574.**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:TRUE COPY OF THE APPOINTEMNT ORDER DATED 01-11-2002
PASSED BY THE DISTRICT EDUCATIONAL OFFICER,THIRUVALLA.**

**EXHIBIT P1(a):TRUE COPY OF THE ORDER APPROVAL DATED 31-03-2005
PASSED BY THE DISTRICT EDCUCATIONAL OFFICER,THIRUVALLA.**

**EXHIBIT P2:TRUE COPY OF THE APPOINTMENT ORDER DATED 02-06-2003
ISSUED BY THE RESPONDENT NO.5 AND APPROVED BY THE
DISTRICT EDUCATIONAL OFFICER, THIRUVALLA.**

**EXHIBIT P3:TRUE COPY OF THE ORDER DATED 05-06-2007 ISSUED BY THE
RESPONDENT NO.5 AND APPROVED BY THE DISTRICT
EDUCATIONAL OFFICER, THIRUVALLA.**

**EXHIBIT P4:TRUE COPY OF THE GOVERNMENT ORDER BEARING GO(MS)
NO.275/99/G.EDN DATED 09-11-1999.**

**EXHIBIT P5:TRUE COPY OF THE JUDGMENT DATED 27-02-1013 IN WPC
NO.5048/2013 OF THIS HON'BLE COURT.**

**EXHIBIT P6:TRUE COPY OFTHE JUDGMENT IN WA NO.926/2013
DATED 19-07-2013 OF THE HONOURABLE COURT.**

**EXHIBIT P7:TRUE COPY OF THE APPOINTEMNT ORDER DATED 05-06-2012
ISSUED BY THE RESPONDENT NO.5.**

**EXHIBIT P8:TRUE COPY OFTHE ORDER BEARING NO.D/2183/12/K.DIS
DATED 27-08-2012 ISSUED BY THE RESPONDENT NO.4.**

**EXHIBIT P9:TRUE COPY OFTHE GOVERNMENT ORDER DATED 12-10-2006
ALONG WITH ENGLISH TRANSLATION.**

**EXHIBIT P10:TRUE COPY OF THE CIRCULAR DATED 18-0-5-2007 ALONG WITH
ENGLISH TRANSLATION.**

**EXHIBIT P11:TRUE COPY OFTHE ORDER BEARING NO.60930/J2/11/G.EDN
DATED 25-10-2011.**

**EXHIBIT P12:TRUE COPY OF THE APPELLATE ORDER DATED 19-06-2013
PASSED BY THE RESPONDENT NO.3.**

**EXHIBIT P13:TRUE COPY OF THE REVISION PETITION DATED 02-07-2013
SUBMITTED BY TH RESPONDENT NO.5 BEOFRE RESPONDENT
NO.2.**

**EXHIBIT P14:TRUE COPY OF THE ORDER DATED 04-01-2014 PASSED BY THE
RESPONDENT NO.2.**

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**EXHIBIT P15:TRUE COPY OF THE GOVERNMENT CIRCULAR DATED 10-05-2012
REFERRED TO THE RELIED UPON BY THE RESPONDENT NO.2.**

**EXHIBIT P16:TRUE COPY OF THE JUDGMENT DATED 18-10-2011 IN WPC
NO.34604/2008 PASSED BY THE HON'BLE COURT.**

**EXHIBIT P16(a):TRUE COPY OF THE JUDGMENT DATED 4.2.2014 IN WA 30/14.55
(o).55(f) OF THIS HONOURABLE COURT.**

**EXHIBIT P17:TRUE COPY OF THE REVISION PETITION DATED 21.1.2014
SUBMITTED BY RESPONDENT NO.5 BEFORE RESPONDENT NO.1.**

**EXHIBIT P18:TRUE COPY OF THE REVISION PETITION DATED 15.2.2014
SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.1
(EXCLUDING ANNEXURES).**

**EXHIBIT P19:TRUE COPY OF THE SAID JUDGMENT DATED 10.3.2014 THUS
PASSED BY THIS HONOURABLE COURT IN W.P(C) NO.6788 OF 2014.**

**EXHIBIT P20:TRUE COPY OF THE SAID HEARING NOTE DATED 25.6.2014 THUS
SUBMITTED BEFORE RESPONDENT NO.1 ALONG WITH ENGLISH
TRANSLATION.**

**EXHIBIT P21:TRUE COPY OF THE JUDGMENT DATED 9.7.214 IN W.P(C)
NO.22377/2013.**

**EXHIBIT P22:TRUE COPY OF JUDGMENT DATED 4.7.2014 IN W.P(C)
NO.13689/2014.**

**EXHIBIT P23:TRUE COPY OF THE JUDGMENT DATED 4.7.2014 IN W.P(C)
NO.13167/2014.**

**EXHIBIT P24:TRUE COPY OF THE GOVERNMENT ORDER BEARING G.O(RT)
NO.4153/2014/G.EDN.DATED 14.10.2014.**

**EXHIBIT P25:TRUE COPY OF THE CIRCULAR NO.58604/J2/2012/G.EDN.
DATED 6.11.2012 ISSUED BY RESPONDENT NO.1.**

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

A.M. Shaffique, J.

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Dated this, the 24th day of February, 2015.

J U D G M E N T

Petitioner challenges Ext. P24 by virtue of which petitioner's appointment to the post of Part-time LG Hindi Teacher in the school managed by the 5th respondent has been approved but based on circular dated 6.11.2012. By the said circular, the appointment is on daily wage basis. Reference to the circular dated 6.11.2012 and the previous circular dated 10.5.2012 (Ext. P15) clearly indicates that daily wage appointment applies only for fresh hands and the same cannot be applied to persons claiming appointment under Rule 51A under Chapter XIVA. This position has been held by this Court in **Ciji P. Jose v. State of Kerala**, 2012 (1) KLT 867. The said judgment had been followed in various other cases as well. It is clearly indicated that 51A claimant is given priority over protected hands. That apart, it is not proper on the part of the Government to impose on the petitioner that she will be appointed only on daily wage basis. Exts. P15 and P24 circulars do not apply in the case of petitioner.

Under such circumstances, the writ petition is only to be allowed. Ext. P24 is quashed to the limited extent of indicating that the circular dated 10.5.2012 and modified by circular dated 6.11.2012 has no application to the case of

the petitioner and the petitioner shall be treated as appointed with effect from 5.6.2012 on regular basis. It is made clear that the petitioner is entitled to all consequential benefits. Necessary orders shall be passed within two months from the date of receipt of a copy of this judgment.

Sd/-

A.M. Shaffique, Judge.

Tds/