

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 35995 of 2010 (Y)

PETITIONERS :

1. SAJITHA P,
PANAMPATTA HOUSE, BHOODAN COLONY P.O., NILAMBUR,
MALAPPURAM DISTRICT, KERALA, PIN-679334.
2. BINDUMOL M.U.,
MATTATHIL HOUSE, PATHER P.O., POOLAPPADAM
MALAPPURAM DISTRICT, KERALA, PIN-679334.
3. ROSHIN P.RAJU,
VATTAKKALAYIL, KARUNECHI, EDAKKARA P.O.,
MALAPPURAM DISTRICT.
4. RASHEED ALI I., ILLICKAL HOUSE,
PEROVAMPADAM, EDIVANNA P.O., NILAMBUR.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS :

1. ASSISTANT EDUCATIONAL OFFICER,
NILAMBUR-679329.
2. DISTRICT EDUCATIONAL OFFICER,
MALAPPURAM-676505.
3. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695001.
4. STATE OF KERALA,
REP. BY SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM-695001.
5. MANAGER, A.U.P.SCHOOL, NETTIKULAM,
UPPADA P.O., MALAPPURAM DISTRICT PIN-679354.

R1 TO R4 BY GOVERNMENT PLEADER SMT. LOWSY A.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ORDER OF THE R1 DT 29/10/1982.
- P2: COPY OF THE ORDER REJECTING THE APPOINTMENT OF 1ST PETITIONER DT 13/1/2005.
- P3: COPY OF THE ORDER REJECTING THE APPOINTMENT OF 2ND PETITIONER DT 17/8/2005.
- P4: COPY OF THE ORDER REJECTING THE APPOINTMENT OF 3RD PETITIONER DT 5/10/2004.
- P5: COPY OF THE ORDER REJECTING THE APPOINTMENT OF 4TH PETITIONER DT 8/11/2006.
- P6: COPY OF ORDER G.O.(P) NO. 46/2006/GENERAL EDUCATION DT 01/02/2006.
- P7: COPY OF THE LETTER DT 4/5/2007 ISSUED BY THE MANAGER TO DDE.
- P8: COPY OF ORDER DT 9/1/2006 OF THE R2 REJECTING THE APPEAL.
- P9: COPY OF ORDER F THE R3 DT 28/12/2005.
- P10: COPY OF THE ORDER OF THE R3 DT 15/10/2007.
- P11: COPY OF THE ORDER OF THE R4 DT 12/2/2009.
- P12: COPY OF THE REPRESENTATIONS OF THE PETITIONERS DT 9/3/2010.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.35995 of 2010

Dated this the 4th day of February, 2015

JUDGMENT

Petitioners were appointed as UPSAs in A.U.P. School, Nettikulam, an aided school. The petitioners were appointed on 20.12.2004, 1.6.2005, 7.6.2004 and 5.6.2006 respectively. All these appointments were made against regular vacancies and the petitioners have been working continuously in these posts ever since.

2. However, it is submitted that the appointments of the petitioners 1 to 3 were approved only with effect from 1.6.2007 and that of the 4th petitioner was approved with effect from 23.8.2007. It appears that the objection on the part of the authority for not approving the petitioners with effect from the date of appointment is for the reason that the Manager did not appoint the protected teachers. The

petitioners case is that no point of time the Manager was provided with the list of protected teachers and it is also pointed out that the protected teacher was also appointed in the school. The petitioners rely on the judgment of the Division Bench of this Court in **State of Kerala v. Nadeera [2013 (2) KLT 88]** submits that the petitioners are entitled for approval of the appointment with effect from the date of the appointment. This Court in Nadeera's case (*supra*) held that when the Manager exercises his power to make appointment in terms of staff fixation order of a qualified teacher, postponement of approval on plea that same can be done only from date of appointment of protected hand is not justified.

In view of the above, the approval of the appointment given to the petitioners only with effect from the date of appointment of the protected teachers is unsustainable. The impugned orders to the above limited extent is set

aside. Therefore, there shall be a direction to the respondents 1 to 4 to approve the appointments of the petitioners from the date of their initial appointment. Needful shall be done to approve and pass appropriate orders within a period of six weeks and thereafter, arrears of salary shall be paid within a further period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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