IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 24TH DAY OF JULY 2024 / 2ND SRAVANA, 1946

WP(C) NO. 24295 OF 2024

PETITIONER:

TESSY EMMANUEL
AGED 50 YEARS
WIFE OF BIJU PHILIP, HEADMISTRESS, ST. PHILOMINA'S HIGH SCHOOL, THIRUVANIYOOR, ALUVA EDUCATIONAL DISTRICT, ERNAKULAM DISTRICT, PIN - 682 308

BY ADV V.A.MUHAMMED

RESPONDENTS:

1. **THE STATE OF KERALA REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT ANNEXE II, THIRUVANANTHAPURAM, PIN - 695 001**
2. **THE DIRECTOR OF GENERAL EDUCATION JAGATHY, THIRUVANANTHAPURAM, PIN - 695 014**
3. **THE DEPUTY DIRECTOR OF EDUCATION ERNAKULAM @ KAKKANAD, PIN - 682 030**
4. **THE DISTRICT EDUCATIONAL OFFICER ALUVA, ERNAKULAM DISTRICT, PIN - 683 101**
5. **THE CORPORATE MANAGER CATHOLICATE DIOCESE OF MUVATTUPUZHA @ PIRAVOM, ERNAKULAM DISTRICT, PIN - 686 664**

OTHER PRESENT:

ADV NISHA BOSE-SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ZIYAD RAHMAN.A.A, J.

.....

W.P (C) No.24295 of 2024

.....

Dated this the 24th day of July, 2024

JUDGMENT

The petitioner is presently working as HST in the school managed by the 5th respondent. The grievance of the petitioner is against the reversion of the petitioner from 15.07.2016-31.05.2017 to the post of UPSA. According to the petitioner, the reversion of the petitioner during the said period, as UPSA, was illegal, as the petitioner was denied the benefit of protection available to her.

2. According to the petitioner, while denying the benefits, the respondents did not take into account, the period of service rendered by her in a permanent vacancy during the period from 26.06.2007 - 31.05.2009. According to her, if the said period was taken into account, she would have been eligible for protection and hence, the reversion of the petitioner for the period from 15.07.2016 - 31.05.2017 was not legal. It was in those circumstances that the petitioner approached this Court challenging Ext.P4.

3. Heard M.Sajjad, the learned counsel for the petitioner and Smt.Nisha Bose, the learned Government Pleader appearing for the official respondent.

4. On going through the Ext.P4 order, which is impugned in this case, it is seen that the contention with regard to the service claimed to have been rendered by the petitioner against a permanent post during the period from 26.06.2007 - 31.05.2009, as UPSA, has not been taken into account. It is also discernible from Ext.P4 that, the said contention has been raised before the said Authority. However, since this is a crucial question for taking a decision with regard to the sustainability of the order of reversion of the petitioner pertaining to the period from 15.07.2016 - 31.05.2017, the decision in this regard ought to have been taken by considering the said question as well. Therefore, I am of the view that Ext.P4 has to be interfered with, and the matter has to be reconsidered by permitting the petitioner to raise the aforesaid contention and to substantiate the same by producing necessary documents in this regard.

In such circumstances, this Writ Petition is disposed of quashing Ext.P4, with a direction to the 1st respondent to reconsider the question raised by the petitioner. To enable the 1st

respondent to take a decision on the said question, the petitioner shall produce all necessary documents showing her service during the period between 26.06.2007 - 31.05.2009 as UPSA before the 1st respondent, which shall be submitted within three weeks from the date of receipt of a copy of this judgment. Thereupon, the question shall be considered afresh by granting a reasonable opportunity for being heard to the petitioner and the 5th respondent. The decision in this regard shall be taken within a period of two months from the date of receipt of the copy of the documents furnished by the petitioner.

Sd/-
ZIYAD RAHMAN.A.A
JUDGE

SSG

APPENDIX OF WP(C) 24295/2024

PETITIONER'S EXHIBITS

Exhibit P-1	**TRUE COPY OF THE BENCH DECISION REPORTED IN 2016 (4) KHC 911=2016 (4) KLT 146 (DISTRICT EDUCATIONAL OFFICER, KANNUR AND OTHERS V. A.V. SATHYABHAMA AND OTHERS DECIDED ON 07.09.2016)**
Exhibit P-2	**TRUE COPY OF THE REVISION PETITION DATED 21.03.2024 SUBMITTED BEFORE THE 1ST RESPONDENT**
Exhibit P-3	**TRUE COPY OF THE JUDGMENT IN W.P. (C) NO. 13982/2024 DATED 05.04.2024**
Exhibit P-4	**TRUE COPY OF THE G.O. (RT.) NO. 4157/2024/GEDN DATED 02.07.2024**
Exhibit P-5	**TRUE COPY OF THE G.O. (P) NO. 29/2016/G.EDN. DATED 29.01.2016**
Exhibit P-6	**TRUE COPY OF THE APPOINTMENT ORDER DATED 17.11.2003 AND THE APPROVAL RECORDED THEREON**
Exhibit P-7	**TRUE COPY OF THE APPOINTMENT ORDER DATED 26.06.2007 AND THE APPROVAL RECORDED THEREON**
Exhibit P-8	**TRUE COPY OF THE APPOINTMENT ORDER DATED 01.06.2009 AND THE APPROVAL RECORDED THEREON**
Exhibit P-9	**TRUE COPY OF THE APPOINTMENT ORDER DATED 01.08.2011 AND THE APPROVAL RECORDED THEREON**
Exhibit P-10	**TRUE COPY OF THE APPOINTMENT ORDER DATED 01.06.2015 AND THE APPROVAL RECORDED THEREON**
Exhibit P-11	**TRUE COPY OF THE ORDER NO. 58/16-17 DATED**

	12.07.2016 ISSUED BY THE CORPORATE MANAGER PERTAINING TO THE APPOINTMENT OF THE PETITIONER FROM 15.07.2016
Exhibit P-12	**TRUE COPY OF THE APPOINTMENT ORDER DATED 01.06.2017 AND THE APPROVAL RECORDED THEREON**
Exhibit P-13	**TRUE COPY OF THE ORDER NO. 173/2023-24 DATED 31.05.2024 OF THE CORPORATE MANAGER PROMOTING THE PETITIONER AS HEADMISTRESS**