IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

WP(C) NO. 38058 OF 2024

PETITIONER:

M.S. JINI
AGED 50 YEARS, W/O. VINOD KUMAR,
SIMHALA SAUDHAM, MURINJAKKAL, KOODAL,
PATHANAMTHITTA - (OFFICE ASSISTANT,
SNUP SCHOOL, KOODAL, PATHANAMTHITTA),
PIN – 689693.

BY ADV SANTHOSH P.ABRAHAM

RESPONDENTS:

1 **STATE OF KERALA**
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - PIN - 695001
REPRESENTED BY IS SECRETARY.

2 **THE DIRECTOR OF PUBLIC INSTRUCTION**
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM, PIN – 695001.

3 **THE DEPUTY DIRECTOR OF EDUCATION**
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,
PATHANAMTHITTA, PIN – 689645.

4 THE ASSISTANT EDUCATIONAL OFFICER
OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER,
KONNY, PATHANAMTHITTA DISTRICT, PIN – 689691.

5 THE MANAGER
SNUP SCHOOL, KOODAL,
PATHANAMTHITTA DISTRICT, PIN – 689693.

BY ADV.SRI. TONY AUGUSTINE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Dated this the 25th day of March, 2025

The petitioner states that the petitioner was appointed as Office Attendant on 01.11.2012 and is continuing till now. The approval for appointment was granted by the 4th respondent to the petitioner as per Ext.P8 on pay scale, only with effect from 01.06.2016. The petitioner's service from 01.11.2012 to 31.05.2016 has been approved only on daily wage basis. This is for the reason that the School remained uneconomic.

2. Counsel for the petitioner would urge that a Division Bench of this Court considered the issue in W.A.No.1358 of 2021 and has held that filling up post of Peon / Office Attendant in Aided uneconomic U.P. Schools only on daily wage basis, is legally unsustainable. This Court held that

so long as there is a vacancy to an established post of Peon / Office Attendant, and the post is not one which is likely to be abolished in any staff fixation conducted in the School, the appointments made to the post have to be approved on regular scale of pay and not on daily wage basis.

3. The petitioner submits that the issue of approval of the petitioner's appointment with effect from 01.11.2012 came up for consideration before the Government and before the Director of Public Instruction. Both the authorities have rejected the application for approval. Counsel for the petitioner submits that orders have been passed without adverting to a binding judgment of this Court in W.A.No.1358 of 2021.

4. Government Pleader entered appearance and resisted the writ petition. The Government Pleader, however, submitted that there is no reference to Ext.P9 judgment in

Exts.P11 or P12.

5. In the facts of the case, I am of the view that the 1st respondent shall reconsider Ext.P12 order in the light of Ext.P9 judgment in W.A.No.1358 of 2021.

The writ petition is accordingly disposed of directing the 1st respondent to reconsider the matter of approval of the appointment of the petitioner from 01.11.2012 to 31.05.2016 on scale of pay basis. Orders shall be passed within a period of three months, after giving an opportunity of hearing to the petitioner.

Sd/-
N. NAGARESH
JUDGE

ams

APPENDIX OF WP(C) 38058/2024

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE APPOINTMENT ORDER DATED 1.11.2012 ISSUED BY THE 5TH RESPONDENT**
Exhibit P2	**TRUE COPY OF THE COMMUNICATION NO. C/959/13 DATED 25.5.013 ISSUED BY THE 4TH RESPONDENT**
Exhibit P3	**TRUE COPY OF THE ORDER NO. 82/7552/2013/KDIS DATED 15.10.2013 ISSUED BY THE 3RD RESPONDENT**
Exhibit P4	**TRUE COPY OF THE ORDER NO. F3/28176/2014/DPI/KDIS DATED 21.7/2014 ISSUED BY THE 2ND RESPONDENT**
Exhibit P5	**TRUE COPY OF THE ORDER NO. C/1907/15/KDIS DATED 28.7.2015 ISSUED BY THE 4TH RESPONDENT**
Exhibit P6	**TRUE COPY OF THE ORDER NO. 55566/N2/14/GEN. EDN. D DATED 12.06.2015 ISSUED BY THE 1ST RESPONDENT**
Exhibit P7	**TRUE COPY OF THE JUDGMENT DATED 14.2.2019 IN WP(C) NO. 36937/2015 OF THIS HON'BLE COURT**
Exhibit P8	**TRUE COPY OF THE ORDER NO. C7294/2021 DATED 02.03.2021 ISSUED BY THE 4TH RESPONDENT**

Exhibit P9	**TRUE COPY OF THE JUDGMENT DATED 10.11.2021 IN W.A. NO.1358/2021 OF THIS HON'BLE COURT**
Exhibit P10	**TRUE COPY OF THE COMMUNICATION NO. AEOKNI/292/2024-C DATED 15.8.2024 ISSUED BY THE 4TH RESPONDENT**
Exhibit P11	**TRUE COPY OF THE ORDER NO. F3/1318/2024/DGE DATED 3.5.2024 ISSUED BY THE 2ND RESPONDENT**
Exhibit P12	**TRUE COPY OF THE [G.O.(ORDINARY) NO. 5331/2023/GEDN DATED 21.09.2023 ISSUED BY THE 1ST RESPONDENT**
Exhibit P13	**TRUE COPY OF THE ORDER NO. GO(ORDINARY) NO. 5615/2024/GEDN DATED 3.9.2024 ISSUED BY THE 1ST RESPONDENT**