

IN THE HIGH COURT OF KERALA AT ERNAKULAM**PRESENT****THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN****WEDNESDAY, THE 22ND DAY OF FEBRUARY 2023 / 3RD PHALGUNA, 1944****WP (C) NO. 5930 OF 2023****PETITIONER/S:**

- 1 LIJO GEORGE
AGED 41 YEARS
S/O. GEORGE, CLERK, SACRED HEART HIGH SCHOOL,
ANGADIKADAVU, KANNUR DISTRICT, PIN-670706, RESIDING
AT "KAKKATHOOKKIYEL", KOOMANTHODE P.O, KANNUR., PIN
- 670704
- 2 RAJEEVE M.C.
AGED 53 YEARS
S/O.CHACKO, CLERK, ST. THOMAS HIGH SCHOOL,
KILIYANTHARA, KILIYANTHARA P.O., KANNUR DISTRICT,
PIN-670706, RESIDING AT "MANTHARA" HOUSE, KUNNOTH,
KILIYANTHARA P.O., KANNUR DISTRICT., PIN - 670706
- 3 JIJI JOHN
AGED 50 YEARS
S/O. JOHN T.C., CLERK, ST. MARY'S HIGHER SECONDARY
SCHOOL, EDOOR, PAYAM P.O., KANNUR DISTRICT, PIN-
670704, RESIDING AT "THAKIDIPURATH" HOUSE,
ANGADIKADAVU P.O., KILIYANTHARA VIA, KANNUR
DISTRICT., PIN - 670706
- 4 SANTHOSH KUMAR P.
AGED 49 YEARS
S/O. GOVINDAN P., CLERK, RAJEEV GANDHI MHSS, MOKERI,
P.O. MOKERI, KANNUR DISTRICT, PIN-670692, RESIDING
AT "ADHEENA", VALLIYAI, PATHAYAKUNNU P.O., KANNUR
DISTRICT., PIN - 670691
- 5 VIJAYAN PUTHAN PURAYIL
AGED 58 YEARS
S/O. P.V. ACHOOTTY, CLERK (RETIRED), V.P. ORIENTAL
HIGH SCHOOL, CHOKLI, CHOKLI P.O., KANNUR DISTRICT,
PIN-670672 RESIDING AT "VALIYA PARAMBATH" HOUSE,
NIDUMBRUM, CHOKLI P.O., THALASSERY, KANNUR
DISTRICT., PIN - 670672

- 6 K.V. MANOJ
AGED 52 YEARS
S/O. A. PAITHAL, CLERK, CHOTHAVOOR HIGHER SECONDARY
SCHOOL, CHAMPAD P.O., KANNUR DISTRICT, PIN-670694,
RESIDING A "KIZHAKKE VEETIL", CHAMPAD P.O., KANNUR
DISTRICT., PIN - 670694
- 7 JOSEPH S
AGED 56 YEARS
S/O. S. FRANCIS, ST. JOSEPH'S HSS, THALASSERY,
KANNUR DISTRICT, PIN- 670101, RESIDING AT
"MARATHANGAL" HOUSE, KODAMOLIKUNNU, NELLIKODE P.O.,
KOZHIKODE DISTRICT., PIN - 673016
- 8 SIMLA K. THOMAS
AGED 43 YEARS
W/O. BIJU K.A., CLERK, ST. JOSEPH'S H.S., KUNNOTH,
KILIANTHARA P.O., IRITTY, KANNUR DISTRICT, PIN-
670706, RESIDING AT "KUNNEL" HOUSE, KACHERIKADAV
P.O., IRITTY, KANNUR DISTRICT., PIN - 670706
- 9 SEBASTIAN GEORGE
AGED 53 YEARS
S/O. GEORGE, AGED 53 YEARS, CLERK, ST. SEBASTIAN'S
HSS, VELIMANAM, KANNUR DISTRICT, PIN- 670704,
RESIDING AT "KANJIRATHUNGAL" HOUSE, MUNDAYAMPARAMBA
P.O., EDOOR, VEMBUZHACHAL, KANNUR DISTRICT., PIN -
670704
- 10 RAFAEEK N.
AGED 42 YEARS
S/O. MOOSA, CLERK, MM HSS, NEW MAHE, NEW MAHE P.O.,
KANNUR DISTRICT, PIN- 673311, RESIDING AT
"NATTAKKAL" HOUSE, KUTTOTH P.O., MEPPAYOOR,
KOZHIKODE DISTRICT., PIN - 673524
- 11 RAJITH JAYARAJ P.T.
AGED 46 YEARS
S/O. P.E. JAYARAJAN, AGED 46 YEARS, CLERK, KARIYAD
NAMBIAR'S HSS, KARIYAD SOUTH P.O, KANNUR DISTRICT,
PIN-673316, RESIDING AT "RAJ BHAVAN" HOUSE, KARIYAD
SOUTH P.O., KANNUR DISTRICT., PIN - 673316
- 12 MURALEEDHARAN K.E.
AGED 57 YEARS
S/O. P.V. KRISHNAN NAMBIAR, AGED 57 YEARS, CLERK
(RETD.), KODALI HIGHER SECONDARY SCHOOL, KODALI

P.O., KANNUR DISTRICT, PIN-670592, RESIDING AT
"MAYOORAM" HOUSE, THATTIODE, KODALI P.O., KANNUR
DISTRICT., PIN - 670592

- 13 SUDHHEER K.E.
AGED 56 YEARS
S/O. A. ANANDAN NAMBIAR, AGED 56 YEARS, CLERK,
MATTANUR HSS, MATTANNUR, KANNUR DISTRICT, PIN-
670702, RESIDING AT "KAMALALAYAM", MATTANUR P.O.,
KANNUR DISTRICT., PIN - 670702
- 14 SHAJI T.V.
AGED 53 YEARS
S/O. A. KRISHNAN NAMBIAR, CLERK, MAMBRAM HSS,
MAMBRAM P.O., KANNUR DISTRICT, PIN-670741, RESIDING
AT "PALAKKAL" HOUSE, ERUVATTY P.O., KANNUR
DISTRICT., PIN - 670642

BY ADV BABU JOSEPH KURUVATHAZHA

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT
OF GENERAL EDUCATION GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM., PIN - 695001
- 2 DIRECTOR OF GENERAL EDUCATION
JAGATHY, THIRUVANANTHAPURAM., PIN - 695041
- 3 DEPUTY DIRECTOR OF EDUCATION
KANNUR, O/O THE DDE KANNUR, KANNUR DISTRICT., PIN -
670101
- 4 DISTRICT EDUCATIONAL OFFICER
THALASSERY, O/O THE DEO, THALASSERY, KANNUR
DISTRICT., PIN - 670101
- 5 ACCOUNTANT GENERAL
O/O THE A.G. (A&E) KERALA, THIRUVANANTHAPURAM., PIN
- 695001

OTHER PRESENT:

SMT.SURYA BINOY, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22.02.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J

W.P.(C) No. 5930 of 2023

Dated this the 22nd day of February, 2023

JUDGMENT

The above writ petition is filed with following prayers :

- i. “issue a writ of certiorari or any other appropriate writ, order or direction quashing Exts P42 and P43 orders issued by the 4th respondent;*
- ii. issue a writ of mandamus or any other appropriate writ, order or direction, commanding the respondents to revise/re-fix the time bound higher grade of petitioners in the cadre of Clerk, by reckoning the last grade service rendered by them, and to sanction and disburse the consequential benefits, forthwith;*
- iii. issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to consider and dispose of Ext P44 representation, in the light of Ext P38 order of the Government, forthwith, with notice to the petitioners;*
- iv. issue such other writ, order or direction which may deem fit in the facts and circumstances of the case” [SIC]*

2. Today, when the matter came up for consideration, the learned counsel for the petitioners submitted that there may be a direction to consider Ext.P44 within a time frame, in

the light of Ext.P36.

3. Heard the learned counsel for the petitioners and the learned Government Pleader also.

4. After hearing both sides, I think this writ petition itself can be disposed of directing to consider Ext.P44 within a time frame in the light of Ext.P36.

Therefore, this writ petition is disposed of with the following directions :

1) The 1st respondent is directed to consider and pass appropriate orders in Ext.P44 as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment with notice to the petitioners.

2) While considering Ext.P44, the applicability of Ext.P36 also will be considered by the 1st respondent.

3) The petitioners will produce a certified copy of this judgment along with the copy of this writ petition before the 1st respondent for compliance.

Sd/-

P.V.KUNHIKRISHNAN
JUDGE

SKS

APPENDIX OF WP (C) 5930/2023

PETITIONER EXHIBITS

| | |
|-------------|--|
| Exhibit P1 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 16.8.2001, APPOINTING THE 1ST PETITIONER AS FULL TIME MENIAL. |
| Exhibit P2 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 14.6.2004, APPOINTING THE 1ST PETITIONER AS PEON. |
| Exhibit P3 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 31.5.2014, APPOINTING THE 1ST PETITIONER AS CLERK. |
| Exhibit P4 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 8.10.1997, APPOINTING THE 2ND PETITIONER AS FULL TIME CONTINGENT MENIAL. |
| Exhibit P5 | TRUE OF THE ORDER OF APPOINTMENT DATED 13.6.2001, APPOINTING THE 2ND PETITIONER AS PEON. |
| Exhibit P6 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.4.2011, APPOINTING THE 2ND PETITIONER AS CLERK. |
| Exhibit P7 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 20.1.2000, APPOINTING THE 3RD PETITIONER AS FULL TIME CONTINGENT MENIAL. |
| Exhibit P8 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 11.6.2002, APPOINTING THE 3RD PETITIONER AS PEON. |
| Exhibit P9 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.2.2013, APPOINTING THE 3RD PETITIONER AS CLERK. |
| Exhibit P10 | TRUE COPY OF THE ORDER OF APPOINTMENT DATED 3.6.1997, APPOINTING THE 4TH PETITIONER AS PEON. |
| Exhibit P11 | TRUE COPY OF THE ORDER OF APPOINTMENT |

DATED 2.7.2001, APPOINTING THE 4TH
PETITIONER AS CLERK.

Exhibit P12 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 6.10.1994, APPOINTING THE 5TH
PETITIONER AS PEON.

Exhibit P13 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.9.1997, APPOINTING THE 5TH
PETITIONER AS CLERK.

Exhibit P14 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.10.1990, APPOINTING THE 6TH
PETITIONER AS PEON.

Exhibit P15 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 22.9.1997, APPOINTING THE 6TH
PETITIONER AS CLERK.

Exhibit P16 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.3.1990, APPOINTING THE 7TH
PETITIONER AS PEON.

Exhibit P17 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 18.10.1995, APPOINTING THE 7TH
PETITIONER AS CLERK.

Exhibit P18 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.4.2000, APPOINTING THE 8TH
PETITIONER AS FULL TIME CONTINGENT MENIAL.

Exhibit P19 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.4.2016, APPOINTING THE 8TH
PETITIONER AS CLERK.

Exhibit P20 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 21.5.2001, APPOINTING THE 9TH
PETITIONER AS FULL TIME MENIAL.

Exhibit P21 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 5.3.2004, APPOINTING THE 9TH
PETITIONER AS PEON.

Exhibit P22 TRUE COPY OF THE ORDER OF APPOINTMENT
DATED 1.10.2013, APPOINTING THE 9TH

PETITIONER AS CLERK.

- Exhibit p23 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 13.10.2004, APPOINTING THE 10TH PETITIONER AS SWEEPER.
- Exhibit p24 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.1.2014, APPOINTING THE 10TH PETITIONER AS CLERK.
- Exhibit P25 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 18.12.2003, APPOINTING THE 11TH PETITIONER AS SWEEPER.
- Exhibit P26 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.4.2010, APPOINTING THE 11TH PETITIONER AS CLERK.
- Exhibit P27 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 15.2.1984, APPOINTING THE 12TH PETITIONER AS SWEEPER.
- Exhibit P28 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.7.2003, APPOINTING THE 12TH PETITIONER AS CLERK.
- Exhibit P29 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 29.7.1991, APPOINTING THE 13TH PETITIONER AS FULL TIME CONTINGENT MENIAL.
- Exhibit P30 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 15.7.2004, APPOINTING THE 13TH PETITIONER AS CLERK.
- Exhibit P31 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.4.2003, APPOINTING THE 14TH PETITIONER AS FULL TIME CONTINGENT MENIAL.
- Exhibit P32 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.10.2012, APPOINTING THE 14TH PETITIONER AS PEON.
- Exhibit P33 TRUE COPY OF THE ORDER OF APPOINTMENT DATED 1.6.2015, APPOINTING THE 14TH PETITIONER AS CLERK.

- Exhibit P34 TRUE COPY OF THE PROCEEDING DATED 2.11.2001 ISSUED BY THE GOVERNMENT OF KERALA.
- Exhibit P35 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 7.2.2013 IN W.P.(C) NO.5000/2005.
- Exhibit P36 TRUE COPY OF THE ORDER DATED 20.5.2013 ISSUED BY THE GOVERNMENT OF KERALA.
- Exhibit P37 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 16.8.2013 IN W.P.(C) NO.20239/2013.
- Exhibit P38 TRUE COPY OF THE ORDER DATED 10.12.2021 ISSUED BY THE GOVERNMENT OF KERALA.
- Exhibit P39 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 14.6.2022 IN W.P.(C) NO.19168/2022.
- Exhibit P40 TRUE COPY OF THE REPRESENTATION DATED 20.6.2022 SUBMITTED BY THE PETITIONERS BEFORE THE 4TH RESPONDENT.
- Exhibit P41 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 23.8.2022 IN W.P.(C) NO.27192/2022.
- Exhibit P42 TRUE COPY OF THE ORDER DATED 3.1.2023 ISSUED BY THE 4TH RESPONDENT.
- Exhibit P43 TRUE COPY OF THE ORDER DATED 4.1.2023 ISSUED BY THE 4TH RESPONDENT.
- Exhibit P44 TRUE COPY OF THE REPRESENTATION DATED 12.1.2023 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.