

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 15TH DAY OF JUNE 2023 / 25TH JYAISHTA, 1945

WP(C) NO. 17566 OF 2023

PETITIONER:

KAVYA K
AGED 42 YEARS, W/O.BIJJOY.V.S,
VELAPARAMBIL HOUSE, PORATHISSERY,
IRINJALAKUDA NORTH, THRISSUR, PIN - 680125
BY ADVS.LINDONS C.DAVIS
E.U.DHANYA
SWATHY A.P.
N.S.SHAMILA

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 DIRECTOR OF GENERAL EDUCATION
DPI JUNCTION, JAGATHY,
THIRUVANANTHAPURAM, PIN - 695014
- 3 DEPUTY DIRECTOR OF EDUCATION
THRISSUR, OFFICE TO DEPUTY DIRECTOR OF EDUCATION,
CIVIL STATION, AYYANTHOLE, THRISSUR, PIN - 680003
- 4 ASSISTANT EDUCATION OFFICER
IRINJALAKUDA, OFFICE OF THE ASSISTANT EDUCATION
OFFICER, IRINJALAKUDA,
THRISSUR DISTRICT, PIN - 680121
- 5 MANAGER
SNGSS L.P.SCHOOL, EDAKULAM,
IRINJALAKUDA, THRISSUR DISTRICT, PIN - 680121
- 6 HEADMISTRESS
SNGSS L.P.SCHOOL, EDAKULAM,
IRINJALAKUDA, THRISSUR DISTRICT, PIN - 680121
BY ADVS.V.M.KRISHNAKUMAR
P.R.REENA(K/000510/1998)
SMT.NISHA BOSE, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

W.P.(C).No.17566 of 2023

Dated this the 15th day of June, 2023

JUDGMENT

This writ petition is filed with following prayers:

- i. to issue a writ of mandamus or any other appropriate writ, order or direction, directing the 5th and 6th respondents to permit the petitioner to rejoin duty in their school as LPSA;
- ii. to issue a writ of mandamus or any other appropriate writ, order or direction, directing the 4th respondent to issue necessary orders on hearing conducted on 30.03.2023 as per Exhibit.P12;
- iii. to issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 4 to 6 to consider that the petitioner is deemed to be duty with effect from 10.03.2023, the date of Exhibit.P11 order and disburse the benefits pursuant to the same;
- iv. to issue a writ of certiorari or any other appropriate writ, order or direction, quashing Ext.P11 to the extend it which orders Inquiry by AEO, Irinjalakuda as per Chapter 14A Rule.75 of KER;

- v. to issue a writ of certiorari or any other appropriate writ, order or direction, quashing Ext.P2, P3 and all further proceedings pursuant to the same.
- vi. to dispense with the production of English translation of vernacular documents;
- vil) to grant such other appropriate Writ or further relief as deemed fit and proper by this Honourable Court on the facts and circumstances of the case.

(SIC)

2. Petitioner was appointed as LPSA on 01.06.2005 by the 5th respondent Manager and she has completed her probation. Subsequently a disciplinary proceedings was initiated against the petitioner and she was suspended from service for unauthorised absence. The Manager also served a copy of the memo of charges and statement of allegation to the petitioner. It is the case of the petitioner that she submitted a reply to the memo of charges and statement of allegation. It is also the case of the petitioner that no further action is taken by the Manager thereafter. Subsequently an enquiry was conducted by AEO on 15.01.2019 regarding the allegation as well as suspension period of the petitioner. The AEO issued Ext.P5 dated 01.02.2019 finding that the

suspension cannot be sustained. It is the further case of the petitioner that since the Manager has taken an adamant stand that he will not forward the leave application, the petitioner has no way other than joining the duty. The request of the petitioner to rejoin duty for the academic year 2022-23 was not permitted as per Ext.P10 for the reason that the matter is pending consideration before the Educational authorities. It is also submitted that, the Deputy Director Education, as per Ext.P11 order dated 10.03.2023, has not interfered the order of AEO declining the suspension period of the petitioner. Thereafter the AEO has conducted a hearing on 30.03.2023, with respect to the suspension of the petitioner by the Manager. It is the further submission that since there is no extension of suspension by any of the Educational Authorities, there is no requirement for further hearing in this regard. Any way the petitioner has attended the hearing before the AEO in obedience to Ext.P12 letter is the submission. Since the request of the Manager for suspension of the petitioner's service was already declined, the petitioner has submitted a request to the Manager and Headmistress to permit her to re-

join duty. But the same was also declined by Ext.P14 order. It is the case of the petitioner that the only intention of the Manager is not to permit the petitioner to join duty for this academic year also. Hence, this writ petition is filed seeking a direction to the respondents to permit the petitioner to rejoin service forthwith and declare that the petitioner is deemed to be with duty with effect from 10.03.2023, the date of Ext.P11 order.

3. Heard the learned counsel for the petitioner and the learned Government Pleader. I also heard the learned counsel for respondents 5 and 6.

4. The counsel for respondents 5 and 6 submitted that a counter affidavit is filed.

5. Admittedly the petitioner is in suspension from 2015 onwards. Admittedly there is no permission from the statutory authorities for extending the period of suspension. If that be the case, respondents 5 and 6 are bound to reinstate the petitioner forthwith. If the petitioner is not reinstated, respondents 1 to 4 will take action against the Manager in accordance with Rule 7 Chapter III KER.

Therefore, this writ petition is allowed in the following

manner:

1. Respondents 5 and 6 are directed to reinstate the petitioner forthwith, as expeditiously as possible, at any rate, within one week from the date of receipt of a stamped certified copy of this judgment.
2. If no steps are taken within one week, respondents 2 to 4 will take appropriate steps in accordance with Rule 7 Chapter III KER.
3. These directions will not affect the right of the Manager and the Educational Authorities to proceed with disciplinary proceedings, if any, pending, in accordance with law.

JV

sd/-
P.V.KUNHIKRISHNAN
JUDGE

APPENDIX OF WP(C) 17566/2023

PETITIONER EXHIBITS

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| Exhibit P1 | A COPY OF THE LEAVE APPLICATION LETTER DATED 02.08.2017 ALONG WITH APPLICATION FOR LEAVE IN PRESCRIBED FORMAT DATED 02.08.2017 SUBMITTED TO THE MANAGER TO FORWARD TO THE 2ND RESPONDENT |
| Exhibit P2 | A TRUE COPY OF THE ORDER DATED 04.10.2017 SUSPENDING THE PETITIONER FROM 10.10.2017 |
| Exhibit P3 | A COPY OF THE ORDER NO.101/2017 DATED 10.10.2017 OF THE 5TH RESPONDENT ALONG WITH COPY OF MEMO OF CHARGES AND STATEMENT OF ALLEGATION |
| Exhibit P4 | A COPY OF THE REPLY DATED 20.11.2017 SUBMITTED BEFORE THE MANAGER, BY THE PETITIONER |
| Exhibit P5 | A COPY OF THE ORDER NO.E-2996/2017/THA.THE DATED 01.02.2019 OF THE AEO |
| Exhibit P6 | A COPY OF THE LETTER SUBMITTED BY THE PETITIONER ON 23.03.2022 BEFORE THE 6TH RESPONDENT TO PERMIT HER TO REJOIN DUTY |
| Exhibit P7 | A COPY OF THE LETTER DATED 26.03.2022 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT |
| Exhibit P8 | A COPY OF THE LETTER DATED 30.03.2022 OF THE 6TH RESPONDENT HEADMISTRESS |
| Exhibit P9 | A TRUE COPY OF THE REPRESENTATION DATED 30.05.2022 OF THE PETITIONER SUBMITTED BEFORE THE 5TH RESPONDENT MANAGER |
| Exhibit P10 | A TRUE COPY OF THE LETTER NO.115/2022/6/2022 DATED 01.06.2022 OF THE 5TH RESPONDENT MANAGER |
| Exhibit P11 | A TRUE COPY OF THE ORDER NO.DDETSR/3253/2022-B5 DATED 10.03.2023 ISSUED BY THE 3RD RESPONDENT |

Exhibit P12	A TRUE COPY OF THE HEARING NOTICE DATED 23.03.2023 ISSUED BY AEO
Exhibit P13	. A COPY OF THE LETTER DATED 07.05.2023 OF THE PETITIONER SUBMITTED BEFORE THE 5TH AND AND 6TH RESPONDENTS
Exhibit P14	A COPY OF THE LETTER DATED 15.05.2023 OF THE 5TH RESPONDENT MANAGER