

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 29TH DAY OF OCTOBER 2012/7TH KARTHIKA 1934

WP(C) .No. 23630 of 2012 (C)

PETITIONER(S) :

SREEJA P.R. , AGED 27 YEARS
UPPER PRIMARY SCHOOL ASSISTANT,
K.P.M HIGHER SECONDARY SCHOOL,
POOTHOTTA, ERNAKULAM - 682 307.

BY ADVS.SRI.N.SUGATHAN
SMT.VARSHA BHASKAR
SRI.S.PRASANTH (AYYAPPANKAVU)

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
2. DISTRICT EDUCATIONAL OFFICER,
ERNAKULAM - 682 011.
3. MANAGER,
KPM HIGHER SECONDARY SCHOOL,
POOTHOTTA, ERNAKULAM - 682 307.

R1 & R2 BY SR. GOVERNMENT PLEADER SRI.M.A. FAYAZ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF APPOINTMENT ORDER FROM 31.7.2006 AS APPROVED BY THE 2ND RESPONDENT AS PER ENDORSEMENT NO.B5/177/2011/K.DIS. DATED 25.2.2011.
- EXT.P2: COPY OF REPRESENTATION DATED 18.3.2011 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT.P3: COPY OF G.O. (P) NO.169/04/G.EDN. DATED 15.6.2004.
- EXT.P4: COPY OF G.O. (P) NO.104/2008/G.EDN. DATED 10.6.2008.
- EXT.P5: COPY OF G.O. (P) NO.56/11/G.EDN. DATED 26.2.2011.
- EXT.P6: COPY OF LETTER DATED 20.8.2011 OF THE GOVERNMENT TO THE DIRECTOR OF PUBLIC INSTRUCTION.
- EXT.P7: COPY OF JUDGMENT DATED 10.11.2011 IN W.P. (C) NO.15461/2010.
- EXT.P8: COPY OF JUDGMENT DATED 10.9.2012 IN W.P. (C) NO.20888/2012.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

VPV

P.R. RAMACHANDRA MENON J.

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W.P. (C) No. 23630 of 2012

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Dated, this the 29th day of October, 2012

JUDGMENT

The petitioner, who was appointed as 'UPSA' vide Ext.P1 in a vacancy against one of the two additional posts of UPSA sanctioned in the staff fixation order for the year 2006 - 2007, challenges endorsement of the 3rd respondent on Ext. P1, approving her appointment from '31.07.2006 to 31.03.2007' only on the daily wage basis and on regular basis from 01.06.2007, and seeks for a direction to approve the service w.e.f. 31.07.2006 on Scale of pay.

2. The learned Counsel for the petitioner submits that, in the light of Exts.P7 and P8 judgments of this Court, the petitioner is entitled to succeed. In the above judgments, the principles stated by this Court in **Unni Narayanan vs. State of Kerala (2009(2) KLT 604)** have been relied upon. In Ext.P7 judgment, this Court relied upon the earlier judgments

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of this Court and there was a direction that the judgment of the Division Bench in **Unni Narayanan's** case (cited supra) will be implemented and approval can be granted to the petitioner therein on submitting an undertaking that in the event of the Special Leave Petitions being allowed, salary will be reimbursed to the Government.

3. In any view of the matter, the petitioner is entitled to succeed in the writ petition. This writ petition is allowed and Ext. P1, to the extent approval is granted only on daily wage basis for the relevant period mentioned therein, is quashed. The petitioner will be granted approval on regular basis on the scale of pay, on getting an 'undertaking' that, in the event of the Special Leave Petitions challenging the judgment of this Court in **Unni Narayanan v. State of Kerala (2009 (2) KLT 604)** are allowed, the petitioner will reimburse the amount drawn as salary. Appropriate orders shall be issued within a period of two months from the date of receipt of a

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copy of this judgment and the monetary benefits, less the amount already drawn, shall be disbursed accordingly.

sd/-
P. R. RAMACHANDRA MENON,
(JUDGE)

kmd

/True copy/

P.A. to Judge