

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 30TH DAY OF JANUARY 2017/10TH MAGHA, 1938

WP(C).No. 31653 of 2015 (F)

PETITIONER(S):

K.N. AMBIKA,
HEADMISTRESS, DEVASWOM BOARD HIGH SCHOOL,
ERUMELI, KOTTAYAM DISTRICT, RESIDING AT
PLANKOOTTATHIL HOUSE, THRIKKARIYOOR,
ERNAKULAM DISTRICT-686 692.

BY ADV. SRI.S.SUBHASH CHAND.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF GENERALA EDUCATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM-695 001,
3. THE DEPUTY DIRECTOR (EDUCATION),
KOTTAYAM, KOTTAYAM DISTRICT- 686 001.
4. DISTRICT EDUCATIONAL OFFICER,
KANJIRAPPALLY, KOTTAYAM DISTRICT.
5. THE MANAGER,
TRAVANCORE DEVASWOM BOARD SCHOOLS,
THIRUVANANTHAPURAM -695 001.
6. SMT. GEETHA. R.,
HIGH SCHOOL ASSISTANT, DEVASWOM BOARD
HIGH SCHOOL, VAMANAPURAM,
THIRUVANANTHAPURAM.

R1 TO R4 BY SR. GOVT. PLEADER SRI.T. RAJASEKHARAN NAIR.
R5 BY ADV. SRI.M.V.S.NAMBOOTHIRI, SC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-01-2017, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: TRUE COPY OF THE GOVT. ORDER NO. GO(MS) NO. 157/2015/DE
DT. 10/06/2015.
- EXT.P2: TRUE COPY OF THE ORDER NO. ROC-1858/15 EDN. DT. 05/06/2015.
- EXT.P3: TRUE COPY OF THE LETTER NO. B3/5586/2015 DT. 10/07/2015 ISSUED BY
DEO, KANJIRAPPALLY.
- EXT.P4: TRUE COPY OF THE LETTER NO. ROC 8645/15/EDN DT. 28/08/2015.
- EXT.P5: TRUE COPY OF THE ORDER NO. B3/5586/2015/KDIS DT. 31/08/2015
ISSUED BY DEO, KANJIRAPPALLY.
- EXT.P6: TRUE COPY OF THE ORDER DT. 07/07/2015 OF THIS HON'BLE COURT IN
WP(C).NO. 20336/2015 (N).
- EXT.P7: TRUE COPY OF THE ORDER DT. 12/10/2015 OF THIS HON'BLE COURT IN
WP(C).NO. 20336/2015 (N).

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.V.ASHA, J.

W.P.(C). No. 31653 of 2015

Dated this the 30th day of January, 2017

JUDGMENT

The petitioner who was appointed as Headmistress in Dewasom Board High School, Erumeli, as per Ext.P2 order dated 05.06.2015 is aggrieved by the denial of approval to her promotion, as per Ext.P5 order passed by the District Educational Officer (D.E.O) on 31.08.2015 on the ground that she has not passed the departmental test. The D.E.O further points out that Smt.Geetha. R, 6th respondent under the 5th respondent School is fully qualified, having passed the departmental test and therefore in terms of G.O(MS) No.157/2015/G.Edn dated 10.06.2015, petitioner's appointment cannot be approved.

2. Even though service is complete on responder No.6 there is no appearance for her. I heard the learned counsel for the petitioner and the learned Government Pleader.

3. The learned counsel for the petitioner submits that Ext.P1 Government Order on the basis of which approval is denied, was subject matter of consideration by a Division Bench of this Court in the judgment in **Manager, Pavandoor HSS,Kozhikode v. Sadanandan C.M and others [2016(5)**

KHC 78(DB)] and this Court held that unless and until Rule 44A of Chapter XIV-A of KER is amended, Ext.P1 Government Order which prescribes a preferential qualification cannot have in force in law. In the above circumstances, the case of the petitioner is also covered by this judgment and order Ext.P5 is liable to be set aside.

4. In view of the judgment in **Manager, Pavandoor HSS** (supra), the petitioner is entitled to succeed and her appointment as Headmistress as per Ext.P2 order is liable to be approved. Accordingly, there shall be a direction to the 4th respondent to reconsider the case of approval of appointment of the petitioner as Headmistress in Ext.P2 order and to issue fresh orders on approval within a period of one month from the date of receipt of a copy of this judgment. On such approval, being granted, the salary due to the petitioner based on such appointment, as per Ext.P2 order shall be released to her within a period of three months. Based on the same, her pay shall also be re-fixed. As petitioner has already retired from service, her terminal benefits due to her shall be recomputed, sanctioned, authorised and disbursed within a further period of four months from the date of receipt of a copy of this judgment.

Accordingly, the writ petition is disposed of.

Sd/-**P.V.ASHA,**
Judge

lsn