

(2021) 01 KL CK 0532
In the High Court Of Kerala
Case No : Writ Petition (C) No. 3991 Of 2013

A.V. Ranjini

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 22-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0532

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : V.A. Muhammed, P.M. Manoj

Judgement

1. The petitioner says that she was appointed as a Full time Urdu Teacher in Iringal Aided Upper Primary School, Kannur, managed by the fourth

respondent, with effect from 01.06.2010, against a retirement vacancy. She says that, however, her appointment was rejected by the third respondent

Assistant Educational Officer (AEO), constraining her to file an appeal before the Government but that same has also been rejected through Exhibit

P5, which, she asserts that, is not an order, but is in the form of a letter.

2. The petitioner says that, in any event of the matter, the contents of Exhibit P5 are egregiously improper, since what is recorded therein is that the

retirement vacancy, against which she was appointed, can only be seen as an additional one and hence that her approval cannot be granted, though the

Government itself had earlier issued orders instructing the competent Educational Officers that Full Time posts are liable to be restored against the

retirement vacancies and to grant approval to them.

3. The petitioner asserts that she is also entitled to similar relief and that she, therefore, preferred a statutory Revision before the Government, but

which was also rejected through Exhibit P7 order. She, therefore, prays that Exhibits P5 and P7 be quashed and the first respondent be directed to

consider Exhibit P8 Review Petition filed by her at the earliest.

4. In response, the learned Senior Government Pleader submitted that a counter affidavit has been filed on record, wherein the following have been

stated:

With regard to Para 3, it is submitted Sri.C.Musthafa, Full Time Urdu Teacher retired from service on 31.05.2010 A.N. He was enjoying the

benefit of Full time as per G.O.(MS) 62/73/G.Edn dated 01.05.1973. Due to his retirement, the post of Urdu Teacher was converted as Part Time as

per w.e.f. 15.07.2010 during the fixation of staff strength for the year 2010-11 as per this Office Order No.DDis/C/2351/2010 dated 04.01.2011, only

12 periods were available for Urdu. With regard to para4, it is submitted that petitioner was appointed as Full Time Urdu Teacher in Iringal

U.P.School w.e.f. 01.06.2010 in the retirement vacancy of Sri.C.Musthafa who retired from service on 31.05.2010. The above appointment was

rejected by this office as per Order No.KDis/C/1840/2010 dated 09.02.2011 as the conditions laid down in G.O.(P) 10/2010 was not fulfilled by the

Manager of the school. As per the clarification Letter No. 5119/J2/ 2011/GEdn dated 21.02.2011 and Letter No.15566/J2/2011/G.Edn dated

12.05.2011 that the vacancies arose due to retirement, resignation, death, transfer and dismissals will have to be filled up with protected teachers.

It is submitted that, while teacher's package was introduced petitioner's name was included in the list of eligible teachers for approval as Sl.No.39 as

per Order dated 13.12.2011 and her appointment was approved as Part Time Urdu teacher w.e.f. 01.06.2011 as per this officer Order

No.KDis/C/4331/2011 dated 24.12.2011 with reference to G.O.(P)No.199/2011/G.Edn dated 01.10.2011 and order No.H2/35920/2011/DPI dated

13.12.2011. Petitioner's request for granting Full Time benefit by allowing diversion of periods from Group C Subjects was also rejected by the

Government as per Order No.34385/S2/2012/GEdn. Dated 29.12.2012. Government is the final authority to take appropriate decision against the

Review Petition of the petitioner.

5. The learned Senior Government Pleader thus submitted that, therefore, the prayers sought for in this writ petition may not be acceded to, but that if

this Court is so inclined, the Government is willing to consider the Review Petition, namely Exhibit P8, as per law.

6. When I consider the afore submissions, it is indubitable that Exhibit P7 is not an order but only in the form of a letter. It has been well settled,

through a series of judgments of this Court, that such proceedings cannot find favour in law. I am, therefore, of the view that Exhibit P7 must fail and

that the Government must reconsider the matter, taking note of the contents of Exhibit P8 Review Petition also, which, however, shall be treated as an

additional representation of the petitioner, since I am aware that there is no statutory provision enabling filing of such a review petition.

In the afore circumstances, I order this writ petition and set aside Exhibit P7, so as to pave way for a fresh consideration of the petitioner's case by

the competent Secretary of the Government, which shall be done after affording an opportunity of being heard to the petitioner, as also the Manager

of the school " either physically or through video conferencing - thus culminating in an appropriate decision thereon, as expeditiously as possible, but

not later than four months from the date of receipt of a copy of this judgment.

I make it clear that while the afore exercise is completed, the contents of Exhibit P8 Review Petition shall also be adverted to by the competent

Secretary, however, construing it to be an additional representation of the petitioner.