

(2014) 09 KL CK 0098
In the High Court Of Kerala
Case No : W.P.(C). No. 1822 of 2014 (C)

Beegam Farsana S.

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Citation : (2014) 09 KL CK 0098

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : S. Subhash Chand, Advocate for the Appellant; Rafeek V.K., Government Pleader, Advocate for the Respondent

Judgement

A.K. Jayasankaran Nambiar, J.—The petitioner was appointed as a Lower Grade Full Time Arabic Teacher in C.M.S. Lower Primary School, Kollakadavu in a regular retirement vacancy with effect from 22.9.2011. Her appointment however was not approved by the 4th respondent, who, by Ext. P2 order dated 19.10.2011, rejected the request for approval of the appointment of the petitioner on the ground that the School was an uneconomic School, and, therefore, by virtue of Exts. P3 and P4 orders of the Government, no fresh appointments could be made in the said School. Against Ext. P2 order of the 4th respondent, the Manager of the School preferred an appeal before the 3rd respondent. The said appeal was rejected by Ext. P5 order dated 27.3.2012. Against the said order, the Manager preferred a revision before the 2nd respondent Director of Public Instructions. By Ext. P11 order dated 6.2.2013, the 2nd respondent, while denying the approval for a regular appointment as Arabic teacher, approved the appointment of the petitioner on daily wages basis for the period from 22.9.2011 till 31.3.2012. This decision of the 2nd respondent was based on Ext. P10 Circular of the Government which clarified that in uneconomic Schools, when appointments were made to vacancies that arose to sanctioned posts, such appointments could only be on daily wage basis. Aggrieved by Ext. P11 order to the extent that it confined the approval on daily wage basis only for

the period from 22.9.2011 to 31.3.2012, the Manager preferred a further revision petition before the 1st respondent. The petitioner also preferred a separate revision petition before the 1st respondent. Both the revision petitions were considered together by the 1st respondent, who proceeded to pass Ext. P18 order dated 27.11.2013. By the said order, the 1st respondent modified Ext. P11 order of the 2nd respondent and held that the petitioner could be permitted to work on daily wage basis even for the period after 31.3.2012 for the academic years 2012-13 and 2013-14 and considered for regular appointment and approval, subject to verification of the staff fixation orders for the said years. Pursuant to Ext. P18 order, the petitioner approached the 2nd respondent through Ext. P19 representation which was preferred for the purposes of getting the directions in Ext. P18 order of the 1st respondent implemented. When no response was forthcoming from the 2nd respondent, the petitioner approached this Court through the present writ petition.

2. A counter affidavit has been filed by the 4th respondent, wherein, the orders passed by the 1st respondent are sought to be justified for the reasons contained therein and with reference to the Government Orders that have been referred to in the said order.

3. I have heard Adv. Sri. S. Subhash Chand, learned counsel for the petitioner and also Sri. Rafeek. V.K., learned Government Pleader appearing for respondents 1 to 4.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I feel that the writ petition can be disposed with a direction to the 2nd respondent to pass appropriate orders on Ext. P19 representation preferred before him by the petitioner. The 2nd respondent shall take note of the fact that Ext. P19 representation has been preferred so as to give effect to Ext. P11 order, as modified by Ext. P18 order of the 1st respondent. The consideration by the 2nd respondent shall be for the purposes of ascertaining whether the petitioner can be appointed to a regular sanctioned post that can be justified on the basis of the staff fixation orders for the years commencing from 2010-11 onwards. In making this enquiry, the 2nd respondent shall be guided by Exts. P16 and P17 correspondence which indicates the number of periods for Arabic, as well as the total number of students in the School, for the years 2010-11 to 2013-14. The 2nd respondent shall also consider Ext. P14 order that was passed in a case similar to that of the petitioner, and pertaining to a teacher in an uneconomic School who was given the benefit of Ext. P10 Government Order. The 2nd respondent shall pass appropriate orders on Ext. P19 representation as aforesaid within a period of two months from the date of receipt of a copy of this judgment. Before passing the order as directed, the 2nd respondent shall also afford the petitioner and the Manager of the School an opportunity of being heard in the matter.

The writ petition is disposed as above.