

**(2016) 03 KL CK 0057**  
**In the High Court Of Kerala**  
**Case No : W.P. (C) No. 30702 of 2014 (K)**

Manju S. Pillai

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

**Date of Decision :** 09-03-2016

**Acts Referred:**

**Citation :** (2016) 2 KHC 478 : (2016) 2 KLT 69

**Hon'ble Judges :** K. Vinod Chandran, J.

**Bench :** Single Bench

**Advocate :** M.V. Bose, Vinod Madhavan and Nisha Bose, Advocates, for the Appellant; M.J. Rajasree, Government Pleader, for the Respondent

**Final Decision :** Allowed

## Judgement

K. Vinod Chandran, J.—1. The petitioner is concerned with her appointment as an HSST Junior (Hindi) on 17.07.2007. It is an admitted fact that the Manager appointed her to the additional division vacancy on 17.07.2007. The petitioner has also been continued all these years as can be seen from the facts disclosed from the records, initially on the appointment made and then by the orders of this Court.

2. The Regional Deputy Director of Higher Secondary Education (RDD) furnished the school details as on 31.12.2008 by Ext. P1 to the Director, based on which the Director made recommendation as per Ext. P2. Going by Ext. P2 recommendation the student strength counted for fixation, for Hindi, indicated 70 students in Class XI and 122 students Class XII. The Director also observed that there is only a slight margin of two students in Hindi in the year 2007-08 and 2008-09 and hence the Government may take a decision as to sanctioning an additional post of HSST (Hindi Junior) (there is some discrepancy in Ext. P2 which will be noticed with reference to the Staff fixation order produced by the Manager; later).

3. Continuing with the facts, the recommendation made by the Director was not

acted upon by the Government. The petitioner was before this Court with W.P(C) No. 8210/2011 which was disposed of by Ext. P6. In Ext. P6 judgment this Court noticed the representation submitted by the Principal detailing various aspects for sanctioning of a post of HSST (Junior)(Hindi). It was found that the Principal had categorically stated that the petitioner is signing the register daily and taking the classes regularly from 17.07.2007. This Court directed the Government to take a decision on the recommendation made by the Director and the representations filed by the Principal and the petitioner.

4. The Government by Ext. P7 found that there is only a slight margin of 2 students in Hindi in the year 2007-08 and rejected the request for an additional sanction by Ext. P7. The petitioner was again before this Court with W.P(C) No. 26735/2011, wherein at the admission stage an interim stay was granted. The petitioner was also directed to be continued. The writ petition was eventually disposed of, finding that there was a recommendation by the RDD for sanction of a post. A reconsideration was directed as per Ext. P10 judgment which also ended in Ext. P12 rejection. The judgment also directed continuance of the petitioner by continuing the interim order earlier granted. Again, the Government found that the marginal increase of two students would not enable the sanction of a post. The petitioner assails the above order herein.

5. The Manager of the school has appeared and contended that the petitioner is continuing and now there is an additional post sanctioned in the year 2011-12 and the Management is ready to consider the request made by the petitioner for appointment in that post. The learned Government Pleader would submit that the ground of rejection is sustainable insofar as there being only 122 students which would enable only sanction of two batches going by the stipulation of 60 per batch.

6. The Manager has produced the staff fixation order for the year 2002-03 to 2007-08 as per Ext. R4(a). The same was issued by the RDD on the basis of G.O(MS) No. 103/92/G.Edn. dated 15.05.1992. A reading of Ext. R4(a) would indicate that an additional post of HSST (Junior) is sanctioned in the year 2007-08. The student strength in the particular subject, ie; Hindi, is also available in Ext. R4(a). Going by Ext. R4(a) issued by the RDD, in the academic year 2007-08 there were 124 students in class XI and 96 students in Class XII. The determination of the batches available on the basis of the student strength would resolve the issue raised.

7. G.O(RT) No. 1341/98/G.Edn dated 28.03.1998 sanctioned one additional division to classes, over 50 students with a margin of 10 students in all the higher secondary schools. Hence if the student strength exceeds beyond 60, then, there should be an additional batch sanctioned with the basic student strength for each batch maintained at 50. This would have to be determined on the basis of the student strength at each point when it exceeds 50. Every additional 61 students would result in two additional batches, one for the 50 and the other for 11.

8. Circular No. Ad.B1.7224/006/HSC dated 30.05.2000 prescribed the maximum strength of one batch to be 50 and the maximum number of periods to be taught by a full time HSST would be 25. The distribution for various subjects are also available in the circular which speaks of six periods for Part II languages. G.O(MS) 398/2002/G.Edn. dated 29.11.2003 provides for appointment of a HSST Junior on the excess period in a week exceeding by 3. Hence for every period beyond 28 there shall be an additional HSST Junior appointed for the language subjects. The eligible staff strength permissible in the respondent school for the academic year 2007-08 has to be determined on the basis of Ext. R4 (a) staff fixation order and the Government Orders and Circular above referred.

9. In class XI there are 124 batches and Class XII 96 batches as per Ext. R4(a). Hence when a batch is taken as comprising of student strength of 50, there shall be 3 batches for Class XI; two comprising of 50 each and the 3rd comprising of 24. In class XII there shall be two batches; one comprising of 50 students and the other comprising of 45 students. In the five available batches there shall be six periods for every week which brings the total Hindi periods to 30 for a single week. The maximum periods a single teacher can take is 25 as noticed above and any period in excess of three would require the sanction of an additional post of HSST Junior. Here there are five additional periods.

10. In such circumstances, there is a requirement of one additional post of HSST Junior. The Government Pleader submitted that in all the subsequent years there is only a marginal increase of two students in Class XI. That is, if the computation is made of batches with a minimum of 60 students. A determination of the student strength and batches as has been determined in the academic year of 2007-08 would indicate that there are 5 batches available in all the said years.

11. Ext. P12 hence would stand set aside. The finding that there are only two additional students is a misinterpretation, insofar as the permissible student strength in a batch is not 60 and is 50. An additional batch could be granted only on the student strength exceeding 60 is the specific finding of this Court based on the Government Orders referred to above. On the above interpretation, the Government has to approve the additional post of HSST (Junior) (Hindi) in the respondent School, in the academic year 2007-08 itself. The Government shall pass orders within three months from the date of receipt of a certified copy of this judgment. The Manager shall, on sanctioning of such post forward the appointment order to the RDD, who shall grant the approval of the petitioner's appointment from 17.07.2007 and disburse the entire pay and arrears within three months from the date of sanction.

Writ petition is allowed. No costs.