

(2012) 03 KL CK 0115

In the High Court Of Kerala

Case No : WP (C) . No. 5470 of 2012 (G)

P. Girija, H.S.A. (Social Studies), Parli High School, Parli
Palakkad

APPELLANT

Vs

The District Educational Officer, Palakkad, Palakkad District,
Pin- 678 001 and The Manager Parli High School, Parli,
Palakkad, Pin- 678 612

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0115

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : Jacob Sebastian, for the Appellant; James Mathew Kadavan Govt.
Pleader R1, Sri. M. Gopikrishnan Nambiar Advocate R2, Sri. P. Gopinath, Sri. P.
Benny Thomas and Sri. K. John Mathai., for the Respondent

Judgement

T.R. Ramachandran Nair, J.—The petitioner seeks for a direction to appoint the petitioner as Headmaster in the Parli High School in the next arising vacancy. The petitioner's case is that she is the senior most H.S.A of the school having 31 years of teaching experience. In fact, promotion was due to the petitioner in the year 2010-2011 when the post of Headmaster fell vacant in the school. But the petitioner relinquished her promotion since she was not getting well due to backache and her junior was appointed who retired in the year 2011-2012. Again when the post of Headmaster fell vacant, the Manager instead of appointing the petitioner appointed one Sri. K.T. Purushothaman who is also junior to the petitioner. Ext.P1 is a copy of the complaint submitted by the petitioner in the matter. It is stated that the appointment of Sri. K.T. Purushothaman was not approved and he will be retiring on 31.03.2012. This writ petition is filed pointing out that in the light of the decision of the Division Bench of this Court in George vs. State of Kerala (1998 (2) KLT 637) and also in the light of the Full Bench decision of this Court in Usha Thayyil Vs. State of Kerala and Others, , any relinquishment of the right for promotion on a previous occasion cannot bar the

right of the petitioner for promotion in the subsequent vacancy.

2. The Manager has filed a detailed counter affidavit. Going by the averments in the counter affidavit, by Ext. R2 (a), the petitioner relinquished her claim for promotion as Deputy Headmistress initially. When a vacancy of Headmaster arose in 2011, the petitioner once again submitted a statement of relinquishment on 01.04.2011 permanently relinquishing her right for promotion and Ext. R2(c) is relied upon in this context. It is stated that the same was entered in the register and the entry therein is marked as Ext. R2 (d) and the plea of the Manager is that in terms of the relinquishment, Sri. K.T. Purushothaman was appointed as Headmaster. According to the Manager, the next senior most has been appointed as Chief Superintendent to conduct the SSLC Examination March, 2012. Therefore, the point in dispute is whether the petitioner's relinquishment on two earlier occasions will bar the petitioner in getting the post of Headmaster. In the light of the stand taken by the Manager that the next incumbent is a rightful claimant, I am of the view that the matter will have to be decided by the Educational Authority itself for the first time since the said person is not in the party array and apart from that the vacancy is yet to arise. It will be too premature for this Court to decide the claim of the petitioner. Even though the learned counsel for the petitioner submitted that in the light of the experience of the petitioner, when the petitioner was overlooked at the time of promotion of Sri. K.T. Purushothaman, now also the Manager will be acting in undue haste to deny the right. All these are matters the petitioner can take up before the District Educational Officer. I need not mention about the extension of the retirement age now since orders are yet to be passed as on today. The vacancy is yet to arise as the present incumbent will be attaining superannuation only on 31.03.2012 in tune with the rules as of now.

Leaving open the remedy of the petitioner to approach the District Educational Officer, this writ petition is disposed of. All the legal issues raised by either parties are left open. If the petitioner files an appropriate representation before the District Educational Officer, he will take an appropriate decision in terms of the pleas raised by both parties after considering the merits of the matter and also after hearing all the parties within a reasonable time. If a vacancy arises on 31.03.2012 and the Manager appoints a person other than the petitioner, the District Educational Officer will take a decision before any approval is granted to the new incumbent, at any rate, within a period of two months from the date of receipt of the complaint.