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Binu M.Mathai Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1124039

Court : Kerala

Decided On : Jan-30-2014

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Binu M.Mathai

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM THURSDAY, THE30H DAY OF JANUARY201410TH MAGHA, 1935 WP(C).No. 11760 of 2012 (T) ---------- PETITIONER(S): ---------- BINU M.MATHAI, AGED43YEARS, (FORMERLY LIBRARIAN GR.111), MEKKADAMPU POST, KADATHY, MUVATTUPUZHA. BY ADVS.SRI.M.V.BOSE SMT.NISHA BOSE SRI.VINOD MADHAVAN RESPONDENT(S): ---------- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIIN695001.

2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION, THIRUVANANTHAPURAM695001.

3. THE MANAGER M.K.M HIGHER SECONDARY SCHOOL, PIRAVOM, PIN686664. R1 & 2 BY GOVERNMENT PLEADER SRI.RAMAPRASAD UNNI R3

BY ADV. SRI.SAJI VARGHESE KAKKATTUMATTATHIL THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON3001-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PJ WP(C).No. 11760 of 2012 (T) ---------- APPENDIX PETITIONER(S) EXHIBITS ---------- EXHIBIT P1. TRUE COPY OF THE CERTIFICATE DATED1706.2006 ISSUED BY THE2D RESPONDENT. EXHIBIT P2. TRUE COPY OF THE REPRESENTATION DATED0707.2009 BEFORE THE DIRECTOR. EXHIBIT P3. TRUE COPY OF THE

JUDGMENT
DATED0910.2009 IN WPC NO.22818 OF2009 EXHIBIT P4. TRUE COPY OF THE

ORDER
DATED1702.2010 PASSED BY THE DIRECTOR. EXHIBIT P5. TRUE COPY OF THE REPRESENTATION DATED1103.2010. EXHIBIT P6. TRUE COPY OF THE

JUDGMENT
DATED2110.2011 IN WPC NO.21712 OF2010 EXHIBIT P7. TRUE COPY OF THE

ORDER
DATED1604.2012 OF THE DIRECTOR. RESPONDENTS' EXHIBITS ---------- R3(A): COPY OF THE

JUDGMENT
DT.1/3/2004 IN WPC.NO.19221/2003 ON THE FILES OF THE HON'BLE HIGH COURT OF KERALA. R3(B): COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE2D RESPONDENT DATED306/2004. / TRUE COPY / P.S. TO JUDGE PJ C.K. ABDUL REHIM, J.

---------- W.P.C.No.11760 OF2012---------- Dated this the 30th day of January, 2014

JUDGMENT

Issue pertains to denial of approval of appointment of the petitioner in the 3rd respondent School, for the period from 16.08.2001 to 25.11.2004. In Ext.P7 proceedings of the 2nd respondent, it is found that there was no authorisation given to the Manager to appoint the petitioner, since no post was created on the basis of sanction issued by the Government. However, it is mentioned that the matter was already taken up with the Government and appropriate orders can be issued only in accordance with the decision of the Government. One of the reliefs sought for in this writ petition is for a direction to the 2nd respondent to take immediate steps to recover an amount of Rs.3,22,503/- (Rupees Three lakhs twenty two thousand five hundred and three only) towards salary of the petitioner, from the 3rd respondent and to make payment of the same to the petitioner.

2. In the Counter Affidavit filed on behalf of the 2nd respondent it is mentioned that, the appointment of the petitioner was not regular and it is made by the Manager W.P.C.No.11760 OF20122 without permission of the Government or the Director. Hence, it is stated that the Manager is responsible for payment of the salary.

2. Learned counsel appearing for the petitioner concealed that, he is not pursuing reliefs sought for against the non- approval of the appointment. On the other hand he seeks liberty from this Court to claim the salary for the period in question from the 3rd respondent. It is up to the petitioner to agitate such claim before appropriate forum. The petitioner relies on the observation contained in the counter affidavit of the 2nd respondent that, the 3rd respondent is responsible for payment of the salary to the petitioner. Of course, it is left open to the 3rd respondent to confest any such claim on whatever grounds available. Considering the fact that the petitioner is seeking only liberty to pursue the claim against the Manager, this writ petition is closed reserving the such liberty. C.K. ABDUL REHIM, JUDGE sp

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