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A.D. Gracy Vs. State of Kerala

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Court : Kerala

Decided On : Feb-17-2014

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

Appellant : A.D. Gracy

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM MONDAY,THE17H DAY OF FEBRUARY201428TH MAGHA, 1935 WP(C).No. 31001 of 2013 (A) ---------- PETITIONER: ---------- A.D. GRACY, AGED51YEARS, W/O.P.J.THOMASKUTTY, HIGH SCHOOL ASSISTANT (SANSKRIT), N.I.VOCATIONAL HIGHER SECONDARY SCHOOL, MARAMPALLY, ALUVA, ERNAKULAM DISTRICT. BY ADVS.SRI.V.A.MUHAMMED SRI.V.RAJASEKHARAN NAIR RESPONDENTS: ---------- 1. THE STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS, JAGATHY, THIRUVANANTHAPURAM-695 014.

3. THE DEPUTY DIRECTOR OF EDUCATION, ERNAKULAM AT KAKKANAD-682 030.

4. THE DISTRICT EDUCATIONAL OFFICER, ALUVA, ERNAKULAM DISTRICT-683 101.

5. THE HEADMASTER, N.I.VOCATIONAL HIGHER SECONDARY SCHOOL, MARAMPALLYALUVA, ERNAKULAM DISTRICT-683 105. R1 TO R4 BY GOVERNMENT PLEADER SMT.SANJEETHA.K.A THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON1702-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Msd. WP(C).No. 31001 of 2013 (A) ---------- APPENDIX ---------- PETITIONER(S)' EXHIBITS: ---------- EXHIBIT P1 : TRUE COPY OF THE APPOINTMENT

ORDER
OF THE PETITIONER DATED2701.1987. EXHIBIT P1(A) : TRUE COPY OF THE APPOINTMENT

ORDER
OF THE PETITIONER DATED0106.1987. EXHIBIT P1(B) : TRUE COPY OF THE STAFF FIXATION

ORDER
19921993 DATED1308.1992. EXHIBIT P2 : TRUE COPY OF THE STATEMENT OF FIXATION OF THE PETITIONER DATED1607.2011. EXHIBIT P3 : TRUE COPY OF THE REPORT OF CHECKING OF PAY FIXATION OF STAFF. EXHIBIT P4 : TRUE COPY OF THE RELEVANT PAGE OF THE RULES OF FIXATION OF PAY (G.O.(P) NO.85/2011/FIN DATED2602.2011). EXHIBIT P4(A) : TRUE COPY OF THE G.O.(P) NO. 195/2011(1)/FIN. DATED2804.2011 OF THE GOVERNMENT. EXHIBIT P5 : TRUE COPY OF THE DECISION REPORTED IN20122)K.L.T.110 DATED1010.2011. EXHIBIT P5(A) : TRUE COPY OF THE

JUDGMENT

IN W.A.NO.428/2012 DATED0703.2012. EXHIBIT P6 : TRUE COPY OF THE REPLY OF THE PETITIONER DATED1401.2013. EXHIBIT P7 : TRUE COPY OF THE

ORDER
NO.D6-8109/2012 OF THE DEPUTY DIRECTOR DATED0511.2013. EXHIBIT P8 : TRUE COPY OF THE REVISION PETITION SUBMITTED BEFORE THE GOVERNMENT DATED0712.2013. EXHIBIT P9 : TRUE COPY OF THE G.O. (P) NO.560/2012/(184)/FIN. DATED1110.2012. RESPONDENT(S)' EXHIBITS: ---------- NIL //TRUE COPY// P.A.TO JUDGE. Msd. C.K. ABDUL REHIM, J.

---------- W.P.(c) No. 31001 OF2013A ---------- DATED THIS THE17h DAY OF FEBRUARY, 2014.

JUDGMENT

The petitioner commenced continuous service as Part- Time High School Assistant with effect from 01-06-1987. On completion of 5 years she was made Full Time with effect from 15-07-1982, by virtue of G.O (MS) No.62/73/G.Edn dated 02-05-1973. Before commencing continuous service as Part-Time High School Assistant, the petitioner has got approved service in an aided schools as Part-Time High School Assistant, from 27-01-1987 to 31-03- 1987. The petitioner's pay was revised with effect from 01- 07-2011 reckoning 24 years service including continuous Part Time service from 01-06-1987 onwards. But Ext.P2 fixation giving weightage to the Part Time service was objected by the 3rd respondent through Ext.P3, stating that reckoning of Part Time service for weightage was irregular and the pay fixation made is not admissible. Direction was W.P.(c) No.31001/2013 -2- issued to regularise/re-fix the pay of the petitioner excluding the Part-Time service from 27-01-1987 to 31-03- 1987 and from 01-06-1987 to 14-07-1992.

2. It is challenging the said proceedings, this writ petition is filed. According to the petitioner, stand taken as above is against the legal position settled by this court in the decision on Sarojini V. State of Kerala (2012 (2) KLT110 and against a

Division Bench decision of this court in WA No.428/2012 dated 07-03-2012. However, it is noticed that the petitioner had already submitted Ext.P8 revision petition before the 1st respondent, aggrieved by Ext.P3. This writ petition is filed raising complaint against non-consideration of Ext.P8.

3. Heard; counsel for the petitioner and learned Government Pleader appearing for the respondents. Considering the factual situations prevailing, interest of justice can be achieved by directing an early disposal of Ext.P8 by the 1st respondent. W.P.(c) No.31001/2013 -3- 4. Therefore the writ petition is disposed of directing the 1st respondent to consider Ext.P8 revision petition and to pass appropriate orders thereon, after affording an opportunity of personal hearing to the petitioner and others concerned. A decision on Ext.P8 shall be taken at the earliest possible, at any rate within a period of 3 months from the date of receipt of a copy of this judgment.

5. Till such time a decision is taken on Ext.P8, the interim order issued by this court on 16-12-2013 restraining recovery pursuant to Exts.P3 & P7, shall remain in force. Sd/- C.K. ABDUL REHIM, JUDGE. AMG True copy P.A to Judge

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