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Soja a Vs. State of Kerala

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Court : Kerala

Decided On : Aug-01-2014

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Soja a

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS FRIDAY,THE1T DAY OF AUGUST201410TH SRAVANA, 1936 WP(C).No. 19820 of 2014 (B) ---------- PETITIONER(S): ---------- SOJA. A, AGED42YEARS, W/O.ANANDAKRISHNAN, U.P.S.A. AMMUP SCHOOL, VAAVANUR (PO), PALAKKAD, RESIDING AT "PATTANATH HOUISE", KARIPPODEM, KOEDUVAYOOR. BY ADV. SRI.U.BALAGANGADHARAN RESPONDENT(S): ---------- 1. STATE OF KERALA, REPRESENTED BY SECRETARY, GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM - 695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM - 695 001.

3. THE DISTRICT EDUCATIONAL OFFICER, PALAKKAD - 678 001.

4. THE ASSISTANT EDUCATIONAL OFFICER, KOLLENGOD, PALAKKAD - 678 506.

5. THE MANAGER, AMMUP SCHOOL, VADAVANNUR, PALAKKAD - 678 504. SENIOR GOVERNMENT PLEADER SRI.V.VIJULAL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0108- 2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.(C).No. 19820/2014 APPENDIX PETITIONER(S)' EXHIBITS P1. COPY OF THE APPOINTMENT

ORDER
DTD.5.6.2006 ISSUED BY R5. P2. COPY OF THE GOVT. LETTER DTD.20.4.2011. P3. COPY OF THE STAFF FIXATION PROCEEDINGS DTD.8.10.2007. P4. COPY OF THE STAFF FIXATION PROCEEDINGS FOR20082009 DTD.8/2008. P5. COPY OF THE LETTER OF R1 DTD.23.1.2013. P6. COPY OF THE REPRESENTATION DTD.15.5.2013 BY THE PETITIONER TO R2. RESPONDENT(S)' EXHIBITS: NIL. sdk+ ///True copy/// P.S. to Judge ALEXANDER THOMAS, J.

========== W.P.(C).No. 19820 of 2014 ========== Dated this the 1st day of August, 2014

JUDGMENT

It is averred by the petitioner that she was appointed as Upper Primary School Assistant (U.P.S.A.) in the aided school under the managership of the 5th respondent, as per Ext.P1. This appointment is said to be against a retirement vacancy. Due to management dispute and pendency of a Rule 51A claim, the approval process of the above said appointment of the petitioner got delayed, it is stated. It is averred that the Government, as per Ext.P2, approved the appointment of the petitioner for the period form 5.6.2006 to 15.7.2008. Ext.P3 shows that there are 89 students in the 5th Standard and eight divisions in the Upper Primary (U.P.) Section in terms of the said staff fixation proceedings for the year 2007-08, it is averred. That the petitioner was thus permitted to continue as per Ext.P3 following the teacher-student ratio of 1:40. As per the staff fixation proceedings for the year 2008-09, there are 87 students in the 5th standard and

eight divisions in the U.P. Section and that the w.p.c.19820/14 - :

2. :- petitioner is entitled to continue following the said 1:40 ratio as per Ext.P4, it is averred. It is the case of the petitioner that she had worked without approval and without pay and allowances, though she is entitled to continue following 1:40 ratio and that she was terminated from service thereafter. Subsequently, she was included in the teachers' bank and deployed as a co-ordinator in June, 2012. The petitioner had submitted a representation to the Government seeking approval and pay and allowances for the period from 16.7.2008 following 1:40 ratio and that, as per Ext.P5, the Government had directed the 2nd respondent-Director of Public Instruction (DPI) to consider and pass orders on the issue. It is further averred that she had submitted Ext.P6 representation before the 2nd respondent-DPI, so as to facilitate a considered decision at the hands of the 2nd respondent as directed, in pursuance of Ext.P5 direction issued by the Government. In the light of these averments and contentions, the petitioner has filed this Writ Petition with the following prayers: "1. Issue Writ in the nature of mandamus commanding 2nd respondent to approve the appointment of the petitioner from 16.7.2008 to 21.6.2012 and grant all consequential benefits including arrears of Pay & Allowances.

2. Issue Writ in the nature of mandamus commanding the 2nd respondent to examine request of the petitioner forwarded by w.p.c.19820/14 - :

3. :- the 1st respondent and dispose of the same within a time frame and in the light of Ext.P6.

3. Declare that petitioner is entitled to get Pay & Allowances from 16.7.2008 to 21.6.2012 treating her as an approved teacher following 1:40 ratio.

4. Such other relief that the Hon'ble Court feel deem fit and proper in the facts and circumstances of the case." 2. Heard Sri.U.Balagangadharan, the learned counsel for the writ petitioner and the Senior Government Pleader appearing for official respondents 1 to 4. Notice to the 5th respondent is dispensed with, taking into account the nature of the relief proposed to be granted in this case.

3. Sri.U.Balagangadharan, the learned counsel for the petitioner submits that the petitioner would limit her prayer at this stage, for a direction to the 2nd respondent-DPI to take a considered decision on Ext.P6 representation. In the light of these aspects, it is ordered that in case Ext.P6 has been received in the office of the 2nd respondent-DPI and is pending consideration, the 2nd respondent- DPI shall take a considered decision on Ext.P6 taking into account all the relevant aspects of the matter and after specifically adverting to the submissions and contentions of the petitioner. In this regard, the 2nd respondent shall offer an opportunity of hearing to the petitioner and the 5th respondent-manager. Such final orders on w.p.c.19820/14 - :

4. :- Ext.P6 shall be passed by the 2nd respondent-DPI without any further delay and at any rate, within an outer time limit of three months from the date of production of a certified copy of this judgment. The Writ Petition (Civil) stands finally disposed of, subject to the above directions. Sd/- sdk+ ALEXANDER THOMAS , JUDGE ///True copy/// P.S. to Judge

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