

Jayamohan M vs State of Kerala

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/43850/2024

Appellant : Jayamohan M

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY,
THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947 WP(C) NO.
43850 OF 2024 PETITIONERS: 1 JAYAMOHAN M AGED 40 YEARS
S/O MOHANAN NAIR, PULINILKUNNATHIL HOUSE, MANJINIKKARA,
OMALLOOR P.O, PATHANAMTHITTA, PIN - 689647 2 NEMESH K
AGED 38 YEARS S/O RAJEEVKUMAR, NIRMALYAM, LAKSHMI
NAGAR,KALLEKKAD, PALAKKAD, PIN - 678612 3 DEEPA .V.S. AGED
44 YEARS D/O SYAMKUMAR R, GOURISADANAM,
VADANAMKURUSSI P.O, SHORNUR, PIN - 679121 4 DHANYA P.
AGED 42 YEARS D/O PHALGUNAN NAIR, KARTHIKA, LAKKIDI
PERUR, MANGALAM P.O, PIN - 679301 5 RAKHEE M. AGED 41

YEARS W/O JYOTHISH. T, JYOTHISH, NEAR WATER AUTHORITY OFFICE, PALAPPURAM P.O OTTAPPALAM, PALAKKAD, PIN - 679103
6 REJITHA REMANAN AGED 42 YEARS W/O SURESH P.K, NARAYANALAYAM, PALAPPURAM, OTTAPPALAM, PALAKKAD, PIN - 679103
7 RENUKA P. AGED 54 YEARS W/O SETHUMADHAVAN. E, EDATHODI HOUSE, NAGARIPURAM P.O MANNUR, PALAKKAD, PIN - 678642
8 MANJUMOL K.A. AGED 43 YEARS W/O VASUDEVAN. T, THANIKKALTHODI HOUSE, MAYANNUR P.O, THRISSUR, PIN - 679105
9 VIJAYASREE P. AGED 42 YEARS W/O SHINE SHANKARDAS, SHINE, ARAYANKODE, MANNARKAD P.O, PALAKKAD, PIN - 678582

10 NITHYA MOHAN AGED 39 YEARS W/O ABHILASH K, ANUGRAHA, PLOT NO.104, ERATTAYAL, PIN - 678551
11 RANJINI R. AGED 40 YEARS W/O SATHEESH KUMAR.A, ALAYANKADKALAM, PERUVEMBA P.O, PALAKKAD, PIN - 678531
12 ASHA MENON T. AGED 41 YEARS W/O PRASAD P.G, NINADHAM GRAMAM, KUZHALMANNAM, PALAKKAD, PIN - 678702
13 YAMUNA. J. AGED 44 YEARS W/O JOSHITH V.P, PRANAVAM HOUSE, KAYARAMPARA, PALAPPURAM P.O, OTTAPPALAM, PALAKKAD, PIN - 679103
14 MIDHUN SURENDRAN

AGED 40 YEARS S/O K. SURENDRAN, YAMUNA, KANNANAKUZHI P.O, CHARUMMODU, ALAPPUZHA DISTRICT, PIN - 690505
15 P. GEETHA AGED 52 YEARS W/O P. RAMACHANDRAN, SAGARIKA HOUSE, MANCHERIKKAVU, KONGAD P.O , PALAKKAD, PIN - 678631
16 LATHA V. AGED 52 YEARS W/O K.JAYASREEKRISHNAN, NO.12 , AARADHYA, M.L COLONY, KUNNATHURMEDU, PALAKKAD, PIN - 678013

17 DHANYA M.P. AGED 49 YEARS W/O MOHANDAS K.B, M.M NIVAS , KADUMTHIRUTHY, YAKKARA P.O PALAKKAD, PIN - 678701
18 RAJANI S. AGED 45 YEARS D/O MURALI KUMAR.K, HARE KRISHNA, KALLADIKODE, PALAKKAD, PIN - 678596
19 PRAJILA P. AGED 42

YEARS W/O HAREESH V.S, VAISAKH,PORIYANI, MONDUR P.O ,
PALAKKAD, PIN - 678592 20 BINU T.A AGED 48 YEARS S/O T.A.
AYYAPPAN, THODUKKATTIL, KUTHAMPULLY, THRISSUR, PIN -
680594 21 SREERAJ B.S. AGED 42 YEARS S/O BAHULEYAN ,
SREEBHADRA, OORUPOIKA P.O, ATTINGAL,
THIRUVANATHAPURAM, PIN - 695104 22 RENUKA K. AGED 41
YEARS D/O VENUGOPALAN P.M, ANUPAMA, NELLAYA, PALAKKAD,
PIN - 679335 23 SEEMA.H.DEV AGED 46 YEARS W/O JYOTHIRAJ
K.V, KALABHAVANAM, KADUVINAL P.O, VALLIKUNNAM,
ALAPPUZHA, PIN - 690501 24 ROSHIN P.R.

AGED 38 YEARS S/O P.K RAPPAL, PULIKKOTTIL HOUSE, NEAR
B.S.S GURUKULAM SCHOOL, ALATHUR P.O, PALAKKAD, PIN -
678541 25 DR.RAMYA M.S. AGED 41 YEARS W/O KRISHNADAS.A,
CHANDRAKANTHAM, PUNARJANI GARDENS, THIRUVILWAMALA,
THRISSUR, PIN - 680588 26 SMITHA M.V. AGED 46 YEARS D/O
VASUDEVAN .K , MANNAZHICALAM,PAZHAMBALACODE, PIN -
678544 27 FIROSKHAN A. AGED 42 YEARS S/O ABDUL RAHMAN,
MAUTHAKOD HOUSE, VAVULIAPURAM P.O
THONNIPADAM,PALAKKAD, PIN - 678543 28 HARI PRASAD K.P.
AGED 42 YEARS S.O HARIDASAN RAJA P.K, PARAKKAL MADHAM
,KOTHAKURSSI, PANAMANNA, PIN - 679501 BY ADVS.
M.V.S.NAMPOOTHIRY ASWATHY BOSE RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY TO
GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANATHAPURAM, PIN -
695001 2 DIRECTOR OF HIGHER SECONDARY EDUCATION SANTHI
NAGAR, THIRUVANATHAPURAM, PIN - 695001 3 REGIONAL
DEPUTY DIRECTOR HIGHER SECONDARY EDUCATION, B2 BLOCK,
CIVIL STATION ROAD, UP HILL, MALAPPURAM,KERALA, PIN -
676505 SRI.PREMCHAND R NAIR,SR.GOVERNMENT PLEADER THIS
WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

JUDGMENT

Dated this the 28th day of March, 2025 The petitioners, who are 28 in number, are Teachers working in various Aided Higher Secondary Schools. The petitioners were appointed as HSST (Junior).

2. The Government decided to sanction starting of

new Higher Secondary Schools in Government and Aided Sectors in the year 2010. Sanction was also accorded for engaging Guest Lecturers in the newly sanctioned Higher Secondary Schools till Regular Teaching posts were created. Thereafter, the Director of Higher Secondary Education forwarded the proposal to the Government for creation and upgradation of Teaching posts and Lab Assistant posts for the academic year 2011-2012 in the Aided Higher Secondary Schools sanctioned by the Government. As per the proposal forwarded by the Director of Higher Secondary Education, the posts were to be created and upgraded in various Higher Secondary Schools.

3. The petitioners submit that they were all initially

appointed as HSST (Junior) and their appointments were approved as HSST (Junior) as per Exts.P2 to P29. The petitioners would contend that there are sufficient working hours in the Higher Secondary Schools, which will justify creation of HSST post in a higher pay scale. As per the law laid down by this Court and followed by the Government of Kerala, as and when the workload of a School increases justifying creation of HSST post, the post should be upgraded as HSST.

4. The petitioners state that upgradation of posts are

justified in the Schools where the petitioners are working. Similarly situated Teachers in other Higher Secondary Schools were granted upgradation as HSST. The respondents have passed orders directing that such Teachers, whose posts are upgraded as HSST, should be given seniority with effect from the date of upgradation of posts.

5. The petitioners relied on Ext.P30 judgment of this Court in W.P.(C) No.20849/2013. Counsel for the petitioners

would submit that in similar circumstances, this Court has held

that the Government Orders according sanction for upgradation prospectively cannot be justified and such upgradation shall have effect from the commencement of the academic year when sufficient workload was available justifying such upgradation. The petitioners are similarly situated and are entitled to get similar benefits, contended the counsel for the petitioners.

6. Senior Government Pleader entered appearance

and resisted the writ petition. The Senior Government Pleader urged that even though upgradation of posts as HSST is justified, for granting approval to the appointment of the petitioners as HSST, there should be an appointment as HSST by the Manager and a proposal for approval of such appointment. If such proposals are there, the appointment as HSST can be justified, provided the petitioners satisfy all other statutory parameters.

7. After hearing the counsel for the petitioners and the

Senior Government Pleader representing the respondents, I find that the legal issue raised by the petitioners is not in serious dispute. If workload is increased in a School, then the posts of HSST (Junior) are to be upgraded. The issue is only about appointment against that post and making a proposal for approval for such appointment by the respondents. In the

facts of the case, I am of the view that the writ petition can be

disposed of with appropriate directions, taking note of Ext.P30

judgment also.

The writ petition is accordingly disposed of directing that if the Managers of the Schools, where the petitioners are working, make a proposal for approval of

appointment of the petitioners as HSST, then the 3rd respondent shall consider the same and grant approval to the appointments, provided the petitioners satisfy all other parameters. As regards seniority of the petitioners, it would be for the Managers to prepare a Draft Seniority List giving due seniority to the petitioners and to forward to the 3rd respondent for approval. If the petitioners are aggrieved by the seniority so assigned by the Manager, the petitioners will be at liberty to take up the matter in accordance with law. If the proposal for approval of appointments are received, the 3rd respondent shall take a decision thereon within a period of three months from the date of receipt of the proposal. Approval will be subject to verification of all documents and qualifications of the petitioners.

Sd/-
N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 43850/2024 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE ORDER DATED Exhibit P2 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 1ST PETITIONER ISSUED ON 21/06/2012 Exhibit P3 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 2ND PETITIONER ISSUED ON 25/07/2012 Exhibit P4 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 3RD PETITIONER ISSUED ON 07/07/2012 Exhibit P5 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 4TH PETITIONER ISSUED ON 07/07/2012 Exhibit P6 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 5TH PETITIONER ISSUED ON 07/07/2012 Exhibit P7 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 6TH PETITIONER ISSUED ON 11/10/2012 Exhibit P8 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 7TH PETITIONER ISSUED ON 01/06/2012 Exhibit P9 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 8TH PETITIONER ISSUED ON 01/06/2012 Exhibit P10 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 9TH PETITIONER ISSUED ON 25/07/2012 Exhibit P11 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 10TH PETITIONER ISSUED ON 02/08/2012 Exhibit P12 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 11TH PETITIONER ISSUED ON 15/06/2012 Exhibit P13 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 12TH PETITIONER ISSUED ON 21/06/2012 Exhibit P14 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 13TH

PETITIONER ISSUED ON 15/06/2012 Exhibit P15 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 14TH PETITIONER ISSUED ON 15/06/2012 Exhibit P16 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 15TH PETITIONER ISSUED ON 5/09/2012 Exhibit P17 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 16TH PETITIONER ISSUED ON 28/06/2012 Exhibit P18 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 17TH PETITIONER ISSUED ON 28/06/2012 Exhibit P19 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 18TH PETITIONER ISSUED ON 28/06/2012 Exhibit P20 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 19TH PETITIONER ISSUED ON 28/06/2012 Exhibit P21 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 20TH PETITIONER ISSUED ON 8/10/2012 Exhibit P22 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 21ST PETITIONER ISSUED ON 8/10/2012 Exhibit P23 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 22ND PETITIONER ISSUED ON 10/10/2012 Exhibit P24 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 23RD PETITIONER ISSUED ON 13/06/2012 Exhibit P25 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 24TH PETITIONER ISSUED ON 13/06/2012 Exhibit P26 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 25TH PETITIONER ISSUED ON 06/12/2012 Exhibit P27 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 26TH PETITIONER ISSUED ON 26/07/2012 Exhibit P28 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 27TH PETITIONER ISSUED ON 13/06/2012 Exhibit P29 TRUE COPY OF THE ORDER OF APPROVAL OF APPOINTMENT OF 28TH PETITIONER ISSUED ON 01/06/2012 Exhibit P30 TRUE COPY OF JUDGMENT DATED 19/09/2014 IN WRIT PETITION NO.20849/2013 OF THIS HON'BLE COURT Exhibit P31 TRUE COPY OF THE NOTICE DATED Exhibit P32 GOVERNMENT ORDER DATED 09.12.2024