

Johnsy John., vs State of Kerala

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : WP(C)/33350/2022

Appellant : Johnsy John.,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI THURSDAY,
THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, 1945 WP(C)
NO. 33350 OF 2022 PETITIONER: JOHNSY JOHN., CLERK (RETIRED)
CMS HIGH SCHOOL, KANAM P.O KOTTAYAM - 686532 RESIDING AT
AMBAKUZH I HOUSE, CHEGALAM SOUTH P O, KOTTAYAM - 686022.
BY ADVS. M.A.FAYAZ M.VISHNUPRIYA C.B.ABHINAVA
RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

2 DIRECTOR OF GENERAL EDUCATION, JAGATHY, THIRUVANANTHAPURAM-695 014. 3 DEPUTY DIRECTOR OF EDUCATION, O/O THE DEPUTY DIRECTOR OF EDUCATION KOTTAYAM- 686 001. 4 DISTRICT EDUCATIONAL OFFICER KOTTAYAM, O/O THE DISTRICT EDUCATIONAL OFFICER, KOTTAYAM- 686001. 5 CORPORATE MANAGER, CM SCHOOLS KOTTAYAM KOTTAYAM - 680 560. SMT.S.L.SYLAJA, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 33350 OF 2022 2

T.R. RAVI, J.

----- W.P(C) No.33350 of 2022
----- Dated this the 29th day of February,
2024

JUDGMENT

The writ petition has been filed to quash Ext.P6 proceedings of the 3rd respondent and to declare that the fixation of the pay scale of Rs.4000-6090 granted to the petitioner with effect from 22.01.2002 at the time of the 1 st Time Bound Higher Grade is in order.

2. This Court has considered similar issues and a

learned Single Judge in W.P.(C). No.42467 of 2022 has held

that the steps taken for recovery were not in accordance with law. The Court relied on similar orders issued in other cases and allowed the writ petition. Ext.P35 is the judgment of the

learned Single Judge. The State had challenged the judgment

of the learned Single Judge in W.A.No.2182 of 2023 which was also dismissed by a Division Bench of this Court relying on the judgment of another Division Bench in W.A.No.9 of

2022. The petitioner is hence entitled to the reliefs claimed.

WP(C) NO. 33350 OF 2022 3 The writ petition is allowed. Ext.P6 is quashed. There will be a direction to the 3rd respondent to sanction the terminal benefits of the petitioner adverting to the last drawn salary by the petitioner. The respondents shall not initiate any further proceedings for recovery since Ext.P6 has already been quashed. It is also declared that the fixation of pay at the scale of Rs.4000-6090 is granted to the petitioner with effect from 22.01.2002 is correct and not liable to be altered or corrected. Sd/- T.R.RAVI JUDGE LEK WP(C) NO. 33350 OF 2022 4 APPENDIX OF WP(C) 33350/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE RESPONDENT DATED 02.09.1991. Exhibit P2 TRUE COPY OF THE STATEMENT OF FIXATION OF PAY IN RESPECT OF THE PETITIONER DATED 30.10.2001.

Exhibit P2(a) TRUE COPY OF RELEVANT EXTRACT OF TESTS. Exhibit P3 TRUE COPY OF THE G.O(MS)NO. 96/73/G.EDN DATED 22.06.1973. Exhibit P4 TRUE COPY OF THE G.O(MS)NO. 438/80/ (212)/FIN DATED 07.07.1980. Exhibit P5 TRUE COPY OF CIRCULAR NO.26790/J3/2006/G.EDN DATED 29.07.2006 Exhibit P5(a) TRUE COPY OF STATEMENT OF FIXATION OF PAY GRANTED TO THE PETITIONER IN THE SCALE OF 4000-6090 ON CLEARING THE DEPARTMENTAL TEST DATED 17.08.2002.

Exhibit P5(b) TRUE COPY OF THE STATEMENT OF FIXATION OF PAY ISSUED TO THE PETITIONER PURSUANT TO G.O(P)NO.85/2011/FIN DATED 26.02.2011. Exhibit P5 (c) TRUE COPY OF THE STATEMENT OF FIXATION OF PAY GRANTED TO THE PETITIONER ON THE BASIS OF G.O(P)NO.145/2006/FIN DATED 25.03.2006 Exhibit P5 (d) TRUE COPY OF THE STATEMENT OF FIXATION OF PAY GRANTED TO THE PETITIONER AS PER G. (P)NO.143/2011/FIN DATED 30.03.2011 DATED 07.03.2014 WP(C) NO. 33350 OF 2022 5 Exhibit P5 (e) TRUE COPY OF THE STATEMENT OF

FIXATION OF PAY GRANTED TO THE PETITIONER VIDE G.O(P)NO.7/2016/FIN DATED 20.01.2016 DATED NIL Exhibit P6 TRUE COPY OF THE LETTER NO.D2-1249/2021 DATED 20.02.2021 ISSUED BY THE 3RD RESPONDENT. Exhibit P6(a) TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO EXT.P6 DATED NIL. Exhibit P6(b) TRUE COPY OF THE LETTER NO.B2/1249/2021 DATED 17.08.2021 ISSUED BY THE 3RD RESPONDENT. Exhibit P6(c) TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER DATED 30.03.2022 Exhibit P7 TRUE COPY OF THE LETTER NO.D2/1249/2021 DATED 22.08.2022 ISSUED BY THE 3RD RESPONDENT. Exhibit P8 TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER DATED 16.08.2022. Exhibit P9 TRUE COPY OF THE RELEVANT EXTRACT OF G.O(P)NO.3000/98/FIN DATED 25.11.1998 Exhibit P10 TYPED COPY OF THE CLARIFICATION LETTER NO.92248/PRC.A3/02/FIN DATED 21.02.2002 Exhibit P11 TRUE OF THE RELEVANT EXTRACT OF G.O(P)NO.145/2006/FIN DATED 25.03.2006 Exhibit P12 TRUE COPY OF THE CIRCULAR NO.114/2018/FIN DATED 03.12.2018. Exhibit P13 TRUE COPY OF GO(MS)NO.16/10/G.EDN. DATED 18.01.2010. Exhibit P14 TRUE COPY OF GO(MS)NO. 216/14/(192)/FIN DATED 11.06.2014. WP(C) NO. 33350 OF 2022 6 Exhibit P15 TRUE COPY OF THE PAY FIXATION STATEMENT IN RESPECT OF SH.RI.STEPHEN P. GEORGE DATED 01.02.1999 Exhibit P16 TRUE COPY OF THE PAY FIXATION STATE MENT IN RESPECT OF SRI. JIBI CHERIAN DATED 30.09.2004 Exhibit P17 TRUE COPY OF THE PAY FIXATION STATEMENT IN RESPECT OF SR.THANKAMMA PC DATED 13.09.2004 Exhibit P18 TRUE COPY OF RELEVANT EXTRACT OF G.O.(P) NO. 27/2021/FIN DATED 10.02.2021. Exhibit P19 TRUE COPY THE G.O.(RT) NO. 675/2017/H & FWD DATED 15.03.2017 Exhibit P20 TRUE COPY OF THE INTERIM ORDER IN WPC NO. Exhibit P21 TRUE COPY OF JUDGMENT IN WPC NO. Exhibit P22 TRUE COPY OF THE JUDGMENT IN SLP NO.10363122 15.06.2022 Exhibit P23 TRUE COPY OF G.O(RT)NO.4736/2021/ G.EDN. DATED 12.08.2022. Exhibit P24 TRUE COPY OF THE JUDGMENTS IN W.P(C)NO. Exhibit P25 TRUE COPY ORDER NO.K.DIS/ 19472/73/C2 DATED 07.11.1973. Exhibit P26 TRUE COPY OF THE JUDGMENT OF THE HON'BLE DIVISION BENCH IN W.A NO 38/2023 DATED 24.07.2023 Exhibit P27 TRUE COPY OF THE JUDGMENT IN WA.NO.9/2022

DATED 06.01.2022 WP(C) NO. 33350 OF 2022 7 Exhibit P28 TRUE COPY OF THE JUDGMENT IN W.P(C)NO.8042/2021 DATED 14.02.2023 Exhibit P29 TRUE COPY OF THE APPLICATION MADE UNDER RTI ACT, BY SRI.SALIM P.M DATED THE 1 ST AND 2 ND RESPONDENTS DATED 04.01.2022 AND 25.01.2022 Exhibit P30 TRUE COPY OF THE APPLICATION SUBMITTED BY THE APPLICANT UNDER THE RTI ACT DATED 26.09.2023 Exhibit P31 TRUE COPY OF THEREPLY RECEIVED FROM THE 3 RD RESPONDENTS OFFICE VID LETTER NO.A3/4981/2023/DDE KTM DATED 18.10.2023 Exhibit P32 TRUE COPY OF G.O(RT)NO.7070/2023/ G.EDN DATED 13.11.2023 Exhibit P33 TRUE COPY OF G.O(RT)NO.1039/2024/G.EDN DATED 06.02.2024 Exhibit P34 TRUE COPY OF THE JUDGMENT IN WA.NO.2182/2023 DATED 22.12.2023 Exhibit P35 TRUE COPY OF THE JUDGMENT IN W.P(C)NO.42469/2022 DATED 07.02.2024 RESPONDENTS EXHIBITS EXHIBIT R3(a) A TRUE COPY OF THE LETTER DATED 27.01.2021 EXHIBIT R3(b) A TRUE COPY OF THE DECLARATION DATED 10.10.2001 SIGNED BY THE PETITIONER EXHIBIT R3(ba) A TRUE COPY OF THE DECLARATION DATED 05.11.2007 SIGNED BY THE PETITIONER WP(C) NO. 33350 OF 2022 8 EXHIBIT R3(bb) A TRUE COPY OF THE DECLARATION DATED 05.10.2013 SIGNED BY THE PETITIONER EXHIBIT R3(c) A TRUE COPY OF THE LETTER NO. D2/1249/2021 ON 20.02.2021 EXHIBIT R3(d) A TRUE COPY OF THE LETTER NO. PWC/A3/129/2021FIN DATED ON 02.03.2022 EXHIBIT R3(e) TRUE COPY OF THE LETTER NO.274/2021-22 DATED 30.03.2022 EXHIBIT R3(f) A TRUE COPY OF THE LETTER DATED 29.04.2022 OF THE PETITIONER EXHIBIT R3(g) TRUE COPY OF THE LETTER NO.D2/10367/2022 DATED 08.03.2023 OF THE DISTRICT TREASURY OFFICER, KOTTAYAM

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