

**The Manager, vs the State of Kerala,**

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**SooperKanoon Citation :** [sooperkanoon.com/1306619](https://sooperkanoon.com/1306619)

**Court :** Kerala

**Decided On :** Feb-01-2024

**Judge :** Honourable Mr.Justice Mohammed Nias C.P.

**Appeal No. :** WP(C)/30412/2019

**Appellant :** The Manager,

**Respondent :** The State of Kerala,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.  
THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945  
WP(C) NO. 30412 OF 2019 PETITIONERS: 1 THE MANAGER,  
DESABANDHU HIGHER SECONDARY SCHOOL, THACHAMPARA,  
MANNARKKAD EDUCATIONAL DISTRICT, PALAKKAD DISTRICT-678  
593. 2 THE HEADMASTER, DESABANDHU HIGHER SECONDARY  
SCHOOL, THACHAMPARA, MANNARKKAD EDUCATIONAL  
DISTRICT, PALAKKAD DISTRICT-678 593. BY ADVS. M.SAJJAD  
SHRI.DINESH KUMAR K. RESPONDENTS:

1 THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT ANNEXE-11, THIRUVANANTHAPURAM-695 001. 2 THE DIRECTOR OF GENERAL EDUCATION, JAGATHY, THIRUVANANTHAPURAM-695 014. 3 THE SUPER CHECK CELL OFFICER, SUPER CHECK CELL OFFICE, CIVIL STATION, KOZHIKODE-673 020. 4 THE DEPUTY DIRECTOR OF EDUCATION, CIVIL STATION, PALAKKAD-678 001. 5 THE DISTRICT EDUCATIONAL OFFICER, MANNARKKAD, PALAKKAD DISTRICT-678 582. BY SMT.K.G.SAROJINI, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.02.2024, ALONG WITH WP(C).35591/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945 WP(C) NO. 35591 OF 2023 PETITIONER: BENNY JOSE.K, AGED 56 YEARS S/O T.K. JOSEPH, HEADMASTER (RETIRED), DESABANDHU HIGHER SECONDARY SCHOOL, THACHAMPARA P.O., PALAKKAD DISTRICT, PIN - 678591 BY ADVS. GEORGE ABRAHAM JOBY D JOSEPH MARY CATHERINE PRIYANKA P.S. RESPONDENTS: 1 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 DIRECTOR OF GENERAL EDUCATION JAGATHY, THIRUVANANTHAPURAM, PIN - 695014 3 THE DEPUTY DIRECTOR OF EDUCATION, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, PALAKKAD, PIN - 679101 4 DISTRICT EDUCATIONAL OFFICER, MANNARKAD P.O., PALAKKAD DISTRICT, PIN - 678582 -3- 5 HEADMASTER, DESABANDHU HIGHER SECONDARY SCHOOL,

THACHAMPARA P.O., PALAKKAD DISTRICT, PIN - 678591 BY ADV DINESH KUMAR K. BY SMT.K.G.SAROJINI, GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.02.2024, ALONG WITH WP(C).30412/2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -4-

**MOHAMMED NIAS C.P., J.**

----- Dated this the 1st day of February,  
2024

## **JUDGMENT**

WP(C)No.35591/2023 is filed by the Headmaster of Desabandhu Higher Secondary School, Thachampara. He was promoted as Headmaster with effect from 23.5.2016 and continued as such till his retirement on 31.5.2023. He claims that his terminal benefits, including DCRG as well as commuted value of pension have not been sanctioned or paid.

2. The writ petition states that Desabandhu Higher Secondary

School have standards V to XII with a student strength of more than 3400 students. The Super Check Cell inspected on 30.1.2017, and found that there was a shortage in the number of students claimed. In the academic year 2018- 2019, the District Educational Officer passed the staff fixation order based on the student's strength on the 6th working day. Thereafter, during the first inspection by the DEO, it was found that there was a shortfall of approximately 200 students out of 3400 students. At the same time, in the second inspection, it was found that 170 students were absent. The Deputy Director of Education

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issued a notice to the petitioner as well as other teachers on 23.11.2019, Ext.P1. Earlier, the second respondent had passed orders tentatively holding that the department intended to cancel four divisions on account of the shortfall of students as per Ext.P2. Though the manager had filed an objection, the second respondent,

as per the proceedings, found that three divisions are to be reduced by Ext.P3 order dated 4.9.2018. Challenging Ext.P3, the writ petitions were filed and based on the directions issued, the Government considered the matter and issued an order dated 1.8.2019, Ext.P5, which found the petitioner and the other teachers of having caused a loss of

Rs.51,692/-, out of which the liability fixed against the petitioner was Rs.1210/-, and the 43 teachers were directed to pay Rs.1174/-.each. The manager and the Headmaster have challenged Ext.P5 order in

WP(C)No.30412/2019. The essential contention of the petitioner in WP(C)No.35591/2023 is that the liability against him is already fixed; no disciplinary action was initiated when the petitioner was serving, and after retirement, no disciplinary action can be initiated. Under such circumstances, withholding of the retiral benefits of the Headmaster is unjustified and prayed for a direction to release the same.

3. The Government has filed a counter stating that liability of

Rs.1210/ was fixed against the petitioner and that only a provisional pension was sanctioned as departmental proceedings were pending against him. The counter affidavit also proceeds to state that the pensionary benefits of the petitioner can be released only after the finalisation of the court procedures in -6- the above writ petition and the issuance of NLC from the concerned officers. For the said reason, 80% of the total pension, namely Rs.41120/- out of Rs.51,400/-, has been sanctioned, and the DCRG and commutation can be released only on finalisation of the pending judicial procedures.

4. As regards WP(C)No.30412 of 2019, the manager and the

Headmaster challenged the Government Order marked as Ext.P15 in the other writ petition, pointing out that the computation of the number of bogus admissions is completely wrong, that most of the students were studying in the school and some of them have successfully completed the SSLC public

examination. Though these facts were brought to the notice of the Government before passing Ext.P5 order, none of the contentions have been considered. The manager had filed Ext.P3, which shows that the allegation of the Super Check Officer that 74 students are to be treated as irregular admissions is wrong and that most of the students were studying in the school and completed the SSLC examination.

5. Though the contentions of the manager and the Headmaster are noted in Ext.P9 order (WP(C)No.30412/2019), the same is not adverted to or considered. Under such circumstances, the Government will have to

reconsider Ext.P9 in WP(C)No.30412/2016. Ext.P9 did not consider the specific contention of the manager that 50 students were removed from the roll after the 6th working day, and also, the proof of certain other students continuing to study in the school and having completed the SSLC examination -7-

ought to be considered. A thorough enquiry must be conducted before ascertaining the actual number of bogus admissions. Under such circumstances, Ext.P9 in WP(C)No.30412/2019 is quashed. There will be a direction to the Government to re-consider Ext.P9 with notice to the manager and affected parties and to take an appropriate decision within four months from the date of receipt of a copy of this judgment.

6. As regards WP(C)No.35591/2023, going by the contentions

noticed, there is no justification for withholding the pension of the petitioner after the liability is fixed against him and when no fresh disciplinary actions can be initiated against him after his retirement. The writ petition is allowed. There will be a direction to the third respondent to forward the pension proposal of the petitioner and a decision taken for sanctioning all the retiral benefits within two months from the date of receipt of a copy of this judgment. The arrears of pension payable to the petitioner with all attendant benefits will be done within a period of three months from the date of the decision as directed above.

Writ petitions are allowed as above Sd/- MOHAMMED NIAS C.P. JUDGE  
dlk/1.2.2024 -8- APPENDIX OF WP(C) 35591/2023 PETITIONER'S EXHIBITS  
EXHIBIT P 1 TRUE COPY OF THE NOTICE NO.B6/19278/18 (1) DATED  
EDUCATION EXHIBITP 2 TRUE COPY OF THE COMMUNICATION  
NO.S.C/24/2018.K.K.D DATED 28/2/2018 BY THE DIRECTOR GENERAL OF  
EDUCATION EXHIBITP 3 TRUE COPY OF THE PROCEEDINGS  
NO.S.C/24/2018/K.K.D. DATED 4/9/2018 OF THE 2ND RESPONDENT  
EXHIBITP 4 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. EXHIBITP 5  
TRUE COPY OF THE GOVERNMENT ORDER G.O(RT) NO.3111/2019/G.EDN.  
DATED 1/8/2019

EXHIBITP 6 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.EXHIBIT

DDEPKD/1557/2023-D5 DATED 21/7/2023 ISSUED BY THE 3RD  
RESPONDENT, EXHIBIT P9 TRUE COPY OF THE ORDER OF SANCTIONING  
OF THE PROVISIONAL PENSION NO. DDEPKD/1557/2023-D5 DATED  
EDUCATION, PALAKKAD EXHIBIT P10 TRUE COPY OF THE  
COMMUNICATION DATED 14/6/2023 ISSUED BY THE INDIAN AUDIT AND  
ACCOUNTS DEPARTMENT EXHIBIT P11 TRUE COPY OF THE ORDER  
DATED 10/8/2023 ISSUED BY -9- THE OFFICE OF THE ACCOUNTANT  
GENERAL RESPONDENT EXHIBITS EXHIBIT R3(A) True copy of ORDER NO.  
DDEPKD/1557/2023-D5 DATED. 21.7.2023 -10- APPENDIX OF WP(C)  
30412/2019 PETITIONERS EXHIBITS EXHIBIT P1 TRUE COPY OF THE  
ORDER NO K.DIS/B4/3088/2017 DATED 13.7.2017 OF THE 5TH RESPONDENT  
EXHIBIT P2 TRUE COPY OF THE ORDER NO SC/24/2018/KKD DATED  
28.2.2018 OF THE 2ND RESPONDENT EXHIBIT P3 TRUE COPY OF THE  
REPLY OF THE MANAGER DATED 28.3.2018 ADDRESSED TO THE 2ND  
RESPONDENT EXHIBIT P4 TRUE COPY OF THE HEARING NOTE  
SUBMITTED BY THE MANAGER DATED 19.5.2018 EXHIBIT P5 TRUE COPY  
OF THE ORDER NO SC/24/2018/KKD DATED 4.9.2018 OF THE 2ND  
RESPONDENT EXHIBIT P6 TRUE COPY OF THE ORDER NO  
RA(1)67927/90/L.DIS DPI DATED 9.10.1990 OF THE 2ND RESPONDENT  
EXHIBIT P7 V REVISION PETITION SUBMITTED BEFORE THE GOVERNMENT  
DATED 14.9.2018 EXHIBIT P8 TRUE COPY OF THE JUDGMENT IN WPC NO

30992/2018 DATED 24.9.2018 OF THIS HON'BLE COURT EXHIBIT P9 TRUE COPY OF THE GO(RT) NO 3111/2019 G.EDN DATED 1.8.2019 OF THE GOVERNMENT EXHIBIT P10 TRUE COPY OF THE ORDER NO K.DIS/B4/2700/2018 DATED 6.7.2018 OF THE DEO, MANNARKKAD EXHIBIT P11 TRUE COPY OF THE ORDER NO B4/1476/2018 DATED 6.10.2018 OF THE DEO,MANNARKKAD EXHIBIT P12 TRUE COPY OF THE ORDER NO B4/.1476/2018 DATED 6.10.2018 OF THE DEO, MANNARKKAD EXHIBIT P13 TRUE COPY OF THE NOTICE NO B6/19278/2018 DATED -11- 16.9.2019 OF THE DDE PALAKKAD EXHIBIT P14 TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF DEEPAK K (RESULT PUBLISHED ON 6.5.2019) EXHIBIT P14 TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF AKKSHAY KRISHNAN V (RESULT PUBLISHED ON 6.5.2019) EXHIBIT P14 TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF ABIDHA A (RESULT PUBLISHED ON 6.5.2019) EXHIBIT P15 TRUE COPY OF THE LIST OF STUDENTS

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