

Pious a. vs the State of Kerala

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Court : Kerala

Decided On : Aug-24-2021

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/2944/2021

Appellant : Pious a.

Respondent : The State of Kerala

Judgement :

WP(C) NO. 2944 OF 2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 24TH DAY OF AUGUST 2021 / 2ND BHADRA, 1943 WP(C) NO. 2944 OF 2021 PETITIONER/S: PIOUS A., AGED 51 YEARS, SON OF ATTONY JOSEPH, NON-VOCATIONAL LECTURER IN GENERAL FOUNDATION COURSE ST. MICHAEL'S VOCATIONAL HIGHER SECONDARY SCHOOL, P.O KUMBALAM, KOLLAM DISTRICT 691 503. (RESIDING AT PADINJARE PUTHIYA VEDU, V. KOTTAYAM P.O, PATHANAMTHITTA DISTRICT 689 656(M. 9447865984) BY ADVS. V.A.MUHAMMED SRI.V.RAJASEKHARAN

NAIR RESPONDENT/S:

1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT ANNEXE II, THIRUVANANTHAPURAM 695 001. 2 THE DIRECTOR OF GENERAL OF EDUCATION, (VOCATIONAL HIGHER SECONDARY WING) HOUSING BOARD BUILDINGS, SANTHI NAGAR, THIRUVANANTHAPURAM 695 001. 3 THE ASSISTANT DIRECTOR, REGIONAL OFFICE, VOCATIONAL HIGHER SECONDARY EDUCATION, KOLLAM 691 001. 4 THE CORPORATE MANAGER, CORPORATE MANAGEMENT OF CATHOLIC SCHOOLS, BISHOP'S HOUSE, KOLLAM 691 001. BY ADVS. JOHN JOSEPH VETTIKAD C.JOSEPH JOHNY

WP(C) NO. 2944 OF 2021 2 SMT NISHA BOSE, SR GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.08.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 2944 OF 2021 3

JUDGMENT

The petitioner states that he commenced approved continuous service

as a Non-vocational Lecturer in General Foundation Course (GFC) in St.Michaels VHS School, Kumbalam, an Aided Vocational Higher Secondary School, under the 4th respondent management. By Ext.P3 order, the scale of pay was sanctioned to the GFC teachers taking note of various aspects. In Ext.P3, it was ordered that the post of GFC teachers working on consolidated pay be renamed as Non-vocational Teacher (Junior) with a scale of pay of Rs.9510-15510/-. Later, by Ext.P4 order, the Assistant Directors of Regional Offices were directed to grant the very same scale of pay to all GFC teachers in aided schools and in accordance with the same, the petitioner was also granted the very same scale of pay after redesignating his post as Non- vocational Teacher (Junior) in GFC.

2. According to the petitioner, by Ext.P5 order dated 30.8.2008, the

Government has directed the Director to cancel Ext.P3 order. By Ext.P6 order, the Director followed suit and cancelled Ext.P3. Thereafter, Ext.P7 order was passed by the Government limiting the benefits prospectively. Being aggrieved by Ext.P7 order, certain persons similarly placed as the petitioner preferred W.P.(C) No. 8000/2015 and by judgment dated 27.11.2019, the writ petition was disposed of with directions. Though the judgment was challenged in appeal, the same was dismissed by Ext.P9 judgment. Though a review petition

WP(C) NO. 2944 OF 2021 4 was filed, the same was dismissed by Ext.P10 order. According to the petitioner, in view of the above, all the GFC teachers irrespective of whether they were qualified as per the Special Rules or not, were entitled to the benefits of scale of pay from March 2008 to September 2008. According to the petitioner, he is also entitled to get the benefits granted vide Ext.P3 order and Ext.P8 judgment. In the said circumstances, he has preferred Ext.P11 revision petition before the Government seeking to grant a regular scale of pay of Non-vocational Teacher (Junior), in GFC with effect from 9.8.2007. It is contended that though the revision was filed as early as on 21.1.2021, no orders have

been passed. It is in the afore circumstances that the petitioner has approached this Court seeking the following reliefs:-

1. Call for the records relating to Ext.P6 order and set aside the original of the same by the issue of a writ of certiorari or other appropriate writ or order.

2. Issue a writ of mandamus or other appropriate writ, order or

direction commanding the respondents to grant regular scale of pay of Non Vocational Teacher (Junior) in GFC with effect from 9.8.2007 the date when he was assigned the scale of pay of Rs.9190 - 15510 by the Director in terms of the provisions in the Special Rules in force at that time to the petitioner.

3. Issue a writ of mandamus or other appropriate writ order or

direction commanding the 1st respondent to consider and pass appropriate orders upon Ext.P11 Revision Petition after affording an opportunity of being heard to the petitioner within a time frame. WP(C) NO. 2944 OF 2021 5

3. I have heard Sri. M.Sajjad, the learned counsel appearing for the petitioner and Smt.Nisha Bose, the learned Government Pleader.

4. Sri. Sajjad submitted that though various other reliefs are claimed, the petitioner limits his prayer for early consideration of Ext.P11 revision petition in the light of Ext.P8 judgment.

5. The learned Government Pleader on instructions submits that the

petitioner is not similarly placed as the petitioners who were granted reliefs as per Ext.P8 judgment. However, it is submitted that since the limited relief is for expeditious consideration of Ext.P11, there cannot be any impediment.

6. Having regard to the facts and circumstances and the submissions

made across the Bar, this writ petition is disposed of directing the 1st respondent to pass final orders in Ext.P11 Revision Petition, with due notice to the petitioner and affected parties, if any. Orders shall be passed as per procedure and in accordance with law expeditiously, in any event, within a period of two months from the date of production of a copy of this judgment.

The petitioner may produce a copy of the writ petition along with this

judgment before the 1st respondent to ensure compliance.

SD/- RAJA VIJAYARAGHAVAN V JUDGE sru WP(C) NO. 2944 OF 2021 6
APPENDIX OF WP(C) 2944/2021 PETITIONER(S) EXHIBITS: EXHIBIT P1 TRUE
COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 20-11-
2001. EXHIBIT P1 A TRUE COPY OF THE ORDER NO. E3/13486/01 DATED 19-
06-2002 OF THE DIRECTOR. EXHIBIT P2 TRUE COPY OF THE G.O(MS) NO.
61/92/G.EDN DATED 17-03-1992 OF THE GOVERNMENT. EXHIBIT P3 TRUE
COPY OF THE ORDER NO. E3/13099/07 DATED 09-08-2007 OF THE
DIRECTOR. EXHIBIT P4 TRUE COPY OF THE LETTER NO. E3/13099/07
DATED 12-03-2008 OF THE DIRECTOR. EXHIBIT P5 TRUE COPY OF THE
LETTER NO. 51431/SC2/07/G1.EDN DATED 30-08-2008 OF THE
GOVERNMENT. EXHIBIT P6 TRUE COPY OF THE ORDER NO. E3/13099/07

DATED 30-09-2008 OF THE DIRECTOR. EXHIBIT P7 TRUE COPY OF THE G.O(MS) NO. GOVERNMENT.

EXHIBIT P8 TRUE COPY OF THE JUDGMENT IN W.P(C) NO. EXHIBIT

DATED 21-12-2020. EXHIBIT P11 TRUE COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT DATED 21-01-2021. RESPONDENT(S) EXHIBITS: NIL

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