

Deepa V., vs State of Kerala

Deepa V., vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1710918

Court : Kerala

Decided On : Jul-09-2021

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/26277/2011

Appellant : Deepa V.,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN FRIDAY, THE 9TH DAY OF JULY 2021 / 18TH ASHADHA, 1943 PETITIONERS: 1 DEEPA.V., HEADMISTRESS, ALPS, MATHUR EAST, KUZHALMANNAM,, PALAKKAD DISTRICT. 2 KRISHNANANDAN.V. HEADMASTER, ALPS MATHUR WEST, KUZHALMANNAM,, PALAKKAD DISTRICT. 3 P.RAMESH, HEADMASTER, C.J.B.SCHOOL KINASSERY P.O., PALAKKAD DISTRICT. SRI.K.JAJU BABU SRI.BRIJESH MOHAN SMT.DHANYA CHANDRAN SRI.T.R.SADEESAN SRI.T.S.SHYAM PRASANTH SMT.M.U.VIJAYALAKSHMI RESPONDENTS: 1 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL

EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. 2 THE DEPUTY DIRECTOR OF EDUCATION PALAKKAD-678 001. 3 THE ASSISTANT EDUCATIONAL OFFICER KUZHALMANNAM, PALAKKAD-678 702. SRI. P.M.MANOJ - SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.07.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners have, in this writ petition, impugned Exts.P4 to P6 orders, through which they have been denied the benefit of Higher Grade on completion of eight years from the day they acquired the scale of pay of Headmasters, consequent to their promotion to such posts. The petitioners say that there is no such stipulation in the applicable Pay Revision Order and that what is provided therein is that they must have completed eight years from the date of their promotion as Headmistress/Headmaster.

2. The petitioners assert that these issues have, in fact,

gained the attention of another learned Judge of this Court in W.P.(C) No.23382/2008 and W.P.(C) No.19513/2010, in which Ext.P7 judgment was delivered, unequivocally declaring that Higher Grade will be eligible to Headmaster/Headmistress on completion of eight years (ten years as it was in the facts of that case) from the date on which he/she is promoted to the said post.

3. The petitioners, therefore, say that the impugned

orders, which provide that they must complete 8 years from the date on which they acquired the scale of pay of Headmistress/Headmaster, is illegal and unlawful.

4. Sri.Brijesh Mohan, learned counsel appearing for the

petitioners, added to the afore submissions by saying that Ext.P7 judgment has, in fact, been affirmed by a Division Bench of this Court in W.A.No.1893/2015 and that a Special Leave Petition attempted against the said judgment has been

dismissed by the Hon'ble Supreme Court. He handed over the judgment and order of the learned Division Bench and the Hon'ble Supreme Court respectively and I find that these submissions are accurate. Sri.Brijesh Mohan, therefore, prays that this writ petition be allowed.

5. Sri.P.M.Manoj, the learned Senior Government

Pleader, initially sought time to file counter pleadings; but noticing that this writ petition has been pending for the last 10 years, I asked specifically him as to whether the case of the petitioners are covered by Ext.P7 judgment. He did not contest this, but said that an issue relating to the Headmasters of High Schools is pending before this Court, consequent to the reference by a learned Judge and that it is such context that the reference was made by the learned Single Judge as said afore. However, to a pointed question from me, he admitted that there is a difference in qualification between a High School Teacher and Headmaster of the High School Section. He also conceded that there is no such distinction in the qualification required for Lower Primary School Teachers and Headmasters/Headmistress of the said section.

6. When I consider the afore submissions and examine Ext.P7, it is luculent that this Court has already declared, as rightly stated by Sri.Brijesh Mohan, that as per the Pay

Fixation Order, there is no mandate that a Headmaster/Headmistress ought to wait eight years after he/she acquires the scale of pay of the said post. What the said order mandates is that the incumbent should have completed eight years from the date on which the promotion was offered to him or her. The distinction that the Government now draws with respect to the date of promotion and date of entry into scale of pay in the post of Headmaster/Headmistress, does not find the place in the Pay Revision Order and this has been specifically noticed in Ext.P7 judgment, thus declaring that it is a date of promotion and not the date of entry into scale which is relevant.

7. Since Ext.P7 has been now affirmed by the learned

Division Bench of this Court and approved by the Hon'ble Supreme Court, I find no reason not to follow it, particularly because it is conceded that the qualifications of an LP School Teacher and that of a Headmistress of the said Section are the same. Hence, even if there is a matter pending before this Court based on a reference order with respect to the High School Section, in which there is a distinction between the qualification of High School Teacher and a Headmaster of the said Section, I am of the view that the petitioners herein are entitled to succeed. In the afore circumstances, I order this writ petition and

set aside Exts.P4 to P6; and consequently, direct the competent respondents to issue orders sanctioning the eligible Higher Grade to the petitioners from the date on which they became eligible, reckoning only the date of promotion as Headmaster/Headmistress and not the date on which they entered the pay scale applicable to the said post.

The afore exercise shall be done by the competent Authority, as expeditiously as is possible, but not later than two months from the date of receipt of a copy of this

judgment and the resultant benefits shall be disbursed to

them within a period of three months thereafter. Sd/- DEVAN RAMACHANDRAN
JUDGE STU APPENDIX OF WP(C) 26277/2011 PETITIONER EXHIBITS Exhibit
P1 COPY OF THE STATEMENT OF FIXATION OF PAY ISSUED ON BEHALF
OF THE 1ST PETITIONER DATED 26/08/2011. Exhibit P2 COPY OF THE
STATEMENT OF FIXATION OF PAY DATED 24/08/2011 ISSUED ON BEHALF
OF THE 2ND PETITIONER. Exhibit P3 COPY OF THE STATEMENT OF
FIXATION OF PAY DATED NIL ISSUED ON BEHALF OF THE 3RD Exhibit P4
COPY OF THE ORDER NO. DIS. D-1852/11 DATED /09/2011 ISSUED BY THE
3RD RESPONDENT IN RESPECT OF THE 1ST Exhibit P5 COPY OF THE
ORDER NO. DIS D-1817/11 DATED /09/2011 ISSUED BY THE 3RD
RESPONDENT IN RESPECT OF THE 2ND PETITIONER. Exhibit P6 COPY OF
THE ORDER NO. DIS. D-1816/11 DATED 01/09/2011 ISSUED BY THE 3RD
RESPONDENT IN RESPECT OF THE 3RD Exhibit P7 COPY OF THE ORDER
DATED 25/02/2011 IN WPC NO.19513/2010 OF THE HONOURABLE HIGH
COURT.

