

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC  
&  
THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WA.No. 120 of 2014 () IN WP(C).1775/2009

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AGAINST THE JUDGMENT IN WP(C) 1775/2009 of HIGH COURT OF KERALA DATED  
04-11-2013

APPELLANT/RESPONDENT NO.2:

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THE MANAGER, C.A.HIGH SCHOOL, PERUVEMBA  
PALAKKAD DISTRICT.

BY ADV. SRI.B.UNNIKRISHNA KAIMAL

RESPONDENTS/PETITIONER & RESPONDENTS 1,3 AND 4:

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1. SREEKANTH G., AGED 34 YEARS  
S/O.GOPALAKRISHNAN KARTHA  
JYOTHI NIVAS, PAZHAMALAKODE, PALAKKAD DISTRICT.-678544

2. THE HEADMISTRESS  
C.A.HIGH SCHOOL, PERUVEMBA, PALAKKAD DISTRICT-678531

3. THE DISTRICT EDUCATIONAL OFFICER  
PALAKKAD.-678001

4. THE DEPUTY DIRECTOR OF EDUCATION  
PALAKKAD -678001

SRI.SHYAM P.MANGUZHA, GOVERNMENT PLEADER  
R2 BY ADV. SRI.BINOY VASUDEVAN  
R2 BY ADV. SMT.P.G.BABITHA  
R BY DR.GEORGE ABRAHAM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30-09-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

WA.No. 120 of 2014 () IN WP(C).1775/2009

APPENDIX

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ANNEXURE-I COPY OF THE ORDER NO.B2/946/13/D DIS DATED 27.2.2013 OF THE DISTRICT EDUCATIONAL OFFICER, PALAKKAD.

ANNEXURE-II COPY OF THE ORDER NO.D.DIS/B2/98/2010 DATED 11.3.2010 OF THE DISTRICT EDUCATIONAL OFFICER, PALAKKAD.

ANNEXURE-III COPY OF THE GO(RT) NO.3937/13/G.EDN DATED 25.9.2013.

RKC

TRUE COPY

PA TO JUDGE

**ANTONY DOMINIC &  
P.V.ASHA, JJ.**

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**W.A.No.120 of 2014**  
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**Dated this the 30<sup>th</sup> day of September, 2015**

**JUDGMENT**

Asha, J.

The newly appointed Manager, C.A.High School, Peruvmba, who took charge in 2013, has filed this writ appeal aggrieved by the direction of the learned single Judge directing that the first respondent shall be considered for appointment as Full Time Menial as against the next vacancy which is arising in the school.

2. The writ petitioner approached this court complaining that he was not allowed to join duty in the School, despite his appointment as per Ext.P1 order on 7.7.2008, seeking directions to Headmistress to permit him to join duty and to approve his appointment with effect from that date. The appellant points out that there was no vacancy to accommodate the petitioner at the time when the then Manager of the School, Sri.Sudevan, who was subsequently disqualified, appointed him. Eventhough Ext.P1 order states that the appointment was against a promotion vacancy of Sri.Divakaran as Peon, Sri.Divakaran even now continues as Full time Menial in the School. It is pointed out that there is a retrenched hand Sri.Abdul Hakeemsa who is liable to be accommodated against the next vacancy. It is the case of the Manager

W.A.No.120 of 2014

:2:

that the appointments of Full Time Menial made in the School in vacancies which arose from 11.4.2003 onwards were under challenge in various proceedings by rival claimants. There were certain proceedings against the Manager also. One Sri.Unnikrishnan, claimed compassionate appointment under Rule 9A of Chapter XXIVA of KER, against the vacancy, which arose on 11.4.2003. In the judgment dated 11.12.2009 in W.A.No.69 of 2009, this Court directed appointment of Sri.Unnikrishnan against the vacancy which arose on 11.4.2003 and further directed that in case anybody was liable to be ousted for implementing that judgment, he should be accommodated in the next arising vacancy. By Ann.II order passed by the DEO on 11.3.2010 in implementation of the judgment, all appointments made in the School from 11.4.2003 were reviewed to accommodate the appellant therein, whereby the appointment of Sri.Divakaran as Full Time Menial was shifted to the vacancy of 1.6.2007. This shifting resulted in retrenchment of one Sri.Abdul Hakeemsa, who was appointed on 1.6.2007. In the meanwhile the aggrieved parties approached Apex Court, and in the judgment in **Shreejith L. V.Deputy Director (Education) Kerala and others** (2012 (3) KLT 214), while disposing of a batch of cases, the claim of Sri.Unnikrishnan for appointment is upheld for which the last appointee was to be ousted. The Manager

points out that as per Annexure III order passed by Government, thereafter also, the next arising vacancy is to be given to Sri.Abdul Hakeemsa who is ousted.

3. The counsel for the appellant points out that at present there is no vacancy and the first arising vacancy has to be filled up by Sri.Abdul Hakeemsa, the retrenched hand, awaiting absorption, in terms of the direction in the writ Appeal and subsequent orders. At the same time, the learned counsel for the first respondent states that Sri.Abdul Hakeemsa is working in the school. But learned counsel for the appellant states he is working on daily wages.

In view of the above circumstances, we find that the Writ Petitioner can be accommodated only after absorbing the retrenched hand Sri.Abdul Hakeemsa against a regular vacancy. In case he is already accommodated in a regular post, the first respondent shall be accommodated as directed by the learned single Judge.

With the above modifications we dispose of the writ appeal.

Sd/-  
**ANTONY DOMINIC,**  
**JUDGE.**

Sd/-  
**P.V.ASHA,**  
**JUDGE.**