

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 28TH DAY OF JUNE 2019 / 7TH ASHADHA, 1941

WP(C).No.27767 of 2018

PETITIONER:

M.R ARUNA
W/O RANJITH KUMAR, AGED 35 YEARS,
JUNIOR SANSKRIT TEACHER(PART TIME),
MKM UPPER PRIMERY SCHOOL, PORKULAM,
THRISSUR-680542.

BY ADV. SRI.V.A.MUHAMMED

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
SECRETARIAT ANNEXE-II,
THIRUVANANTHAPURAM-695001.
- 2 THE DIRECTOR OF PUBLIC INSTRUCTIONS
JAGATHY, THIRUVANANTHAPURAM-695 014.
- 3 THE DISTRICT EDUCATION OFFICER,
CHAVAKKAD, THRISSUR DISTRICT-680506.
- 4 THE ASSISTANT EDUCATIONAL OFFICER,
KUNNAMKULAM,
THRISSUR DISTRICT-680 503.
- 5 THE MANAGER,
MKM UPPER PRIMARY SCHOOL, PORKULAM,
THRISSUR DISTRICT 680 542.
- 6 THE HEADMASTER,
MKM UPPER PRIMARY SCHOOL, PORKULAM,
THRISSUR DISTRICT 680 542.

BY SR.GOVERNMENT PLEADER SMT.MARY BEENA JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28.06.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.ASHA, J.

W.P(C) No.27767 of 2018-U

Dated this the 28th day of June, 2019

JUDGMENT

The petitioner was appointed as a Junior Sanskrit Teacher (Part-time) as per Ext.P1 order dated 11.02.2013 against a vacancy which arose on retirement of Smt.C.V.Mariyamma Sanskrit Teacher. By Ext.P2 order the Government directed approval of the appointment of the petitioner from 11.02.2013 to 31.3.2013 on daily wages and thereafter from the next Academic Year from 03.06.2013 onwards on regular basis. Therefore, the petitioner is aggrieved by the denial of appointment on regular basis from the initial date of appointment.

2. The 3rd respondent has filed a counter affidavit stating that approval on regular basis cannot be granted to the petitioner since the appointment was made at the fag end of the Academic Year. It is also stated that the petitioner's appointment was against a retirement vacancy which arose on 31.03.2008 and the said post which was lying vacant for more than one year has to be deemed to have been abolished. Therefore, the appointment against an abolished post was not possible on regular basis w.e.f 11.2.2013 and that can only be considered as an additional division vacancy.

3. This Court has already held that the orders regarding the abolition of post when the post is kept unfilled for more than one year available under the Government Department cannot be extended to aided schools in the absence of any provisions in the KER or any executive orders. As the petitioner's appointment was against a regular vacancy which arose on retirement though in the year 2008, continued even after the summer vacation, the petitioner is entitled to get the appointment approved in the light of the judgment of the Apex Court in ***State of Kerala v. Sneha Cherian*** [2013 (1) KLT 755 (SC)].

In the above circumstances, the Writ Petition is allowed directing the 4th respondent to issue revised orders approving the appointment of the petitioner from the initial date of appointment ie., w.e.f 11.02.2013 on regular basis and to grant all consequential benefits to the petitioner including vacation salary.

Sd/- (P.V.ASHA, JUDGE)

rtr/

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 11.2.2013.
EXHIBIT P2	TRUE COPY OF THE G.O(RT)NO.816/2015/G.EDN DATED 27.2.2015.
EXHIBIT P3	RUE COPY OF THE GOVERNMENT LETTER NO.44977/J2/2013/G.EDN DATED 14.10.2015.
EXHIBIT P4	TRUE COPY OF THE JUDGMENT IN WPC.NO.1793/2015 DATED 12.7.2018.