

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**TUESDAY, THE 31<sup>ST</sup> DAY OF JANUARY 2023 / 11TH MAGHA, 1944**

**WP(C) NO. 5196 OF 2022**

**PETITIONER/S:**

SOMA P.KORAH, AGED 55 YEARS  
D/O.P.C.KORAH, HEAD MISTRESS CMS LP SCHOOL  
VENGALAM, EZHUMATTOOR P.O., PIN-689 586, RESIDING  
AT PARANKAMOTTIL HOUSE, EZHUMATTOOR P.O.,  
MALLAPALLY TALUK, PATHANAMTHITTA DISTRICT-689  
586.

BY ADVS.  
ARUN.B.VARGHESE  
AISWARYA V.S.  
VARNA MANOJ

**RESPONDENT/S:**

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY, GENERAL EDUCATION  
DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.
  - 2 THE DEPUTY DIRECTOR OF EDUCATION,  
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,  
THIRUVALLA P.O., PATHANAMTHITTA DISTRICT-689 105.
  - 3 THE ASSISTANT EDUCATIONAL OFFICER,  
OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER,  
VENNIKULAM, VENNIKULAM P.O., PATHANAMTHITTA  
DISTRICT-689 544.
- BY ADV ADVOCATE GENERAL OFFICE KERALA

**OTHER PRESENT:**

SMT.NISHA BOSE, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 31.01.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J.**

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W.P.(C) No. 5196 of 2022

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Dated this the 31<sup>st</sup> day of January, 2023

**JUDGMENT**

The above writ petition is filed with following prayers:

*“1. To issue a writ of certiorari or any other writ or order calling for the records relating to Exhibit P2, P3, P4 and P7 and quash the same.*

*2. To issue a writ of mandamus or any other writ or order directing the 1st respondent to reconsider Exhibit P7 communication after taking note of Exhibit P8 communication and to issue fresh orders after hearing the writ petitioner.*

*3. To declare that the writ petitioner is entitled for notional Senior Grade and Selection Grade.*

*4. To pass any other appropriate writ or order as deemed fit and proper by this Honourable Court.” (sic)*

2. The petitioner was working as Headmistress of CMS LP School, Vengalam and she retired from service on 31-05-2022. The petitioner got promoted to the post of Headmistress on 09-06-2002 and her appointment was approved by the Education

Department. The petitioner entered the service as LP School Assistant on 09-06-1987. It is the case of the petitioner that prior to joining the service, the petitioner was having an approved aided school service of five months and twenty two days i.e. from 23-09-1986 to 28-11-1986 and from 05-01- 1987 to 10-03-1987. According to the petitioner, she is entitled for notional Senior Grade on 27-01-2005 as she completes 18 years of service and also entitled for notional Selection Grade on 27-01-2010 as she completes 23 years of service. Therefore, it is submitted that, she submitted her proposal along with option before the 3<sup>rd</sup> respondent and the 3<sup>rd</sup> respondent after perusing the proposal as well as the service book of the petitioner has ordered notional Senior Grade and Selection Grade to the petitioner and also has fixed her salary in accordance with the same through Exhibit P1. On the basis of Exhibit P1, the writ petitioner's salary was re fixed and she received the revised salary. It is the case of the

petitioner that there was a difference of opinion between the officer who issued Exhibit P1 and a Senior Superintendent in that office and upon the instance of the said Senior Superintendent, a person has submitted a complaint and on the basis of the said complaint, the benefit given to the petitioner through Exhibit P1 was withdrawn by the 2<sup>nd</sup> respondent through Exhibit P2 and the 3<sup>rd</sup> respondent was directed to revise the refixation and also to assess the excess amount sanctioned to the petitioner. It is the case of the petitioner that she was not heard before the issuance of Exhibit P2 order. On the basis of Exhibit P2, the 2<sup>nd</sup> respondent has quantified an amount of Rs.1,38,454/- as the amount which was wrongly re-fixed and further directed to remit the said amount through Exhibit P4. While fixing the said amount, it is the case of the petitioner that, no notice was issued to the petitioner. Against Exhibit P2 and P4 the petitioner has submitted Exhibit P5 representation before the 1<sup>st</sup> respondent and

when there was no response from the side of the 1<sup>st</sup> respondent, the petitioner has submitted Exhibit P6 letter before the Minister of Education and the same was forwarded to the office of the 1<sup>st</sup> respondent. It is the case of the petitioner that the 1<sup>st</sup> respondent also disposed of the same as per Ext.7 communication without hearing the petitioner. Hence, this writ petition is filed.

3. Heard the counsel for the petitioner and the Government Pleader.

4. The short point raised by the petitioner is that the orders impugned are passed by the authorities without giving an opportunity of hearing to the petitioner. This Court perused Ext.P7. There is nothing in Ext.P7 to show that it is an order passed after giving an opportunity of hearing to the petitioner. According to the petitioner, if an opportunity is given, he will be able to substantiate his case before the 1<sup>st</sup> respondent. If that is the case, I think Ext.P7 can be set aside, without expressing any

opinion on merit and the 1<sup>st</sup> respondent can be directed to reconsider the matter, after giving an opportunity of hearing to the petitioner, within a time frame. While passing final orders, the 1<sup>st</sup> respondent will consider Ext.P8 also.

Therefore, this writ petition is disposed of in the following manner:

1. Ext.P7 is set aside.
2. The 1<sup>st</sup> respondent is directed to reconsider Ext.P6, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.
3. While passing final orders, the 1<sup>st</sup> respondent will consider the applicability of Ext.P8 letter.
4. The petitioner will produce a copy of this writ petition together with a certified copy of this judgment before the 1<sup>st</sup> respondent for compliance.

5. Till final orders are passed as directed above, recovery steps against the petitioner shall be kept in abeyance.

**sd/-**

**P.V.KUNHIKRISHNAN  
JUDGE**

das

**APPENDIX OF WP(C) 5196/2022**

**PETITIONER EXHIBITS**

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| Exhibit P1 | TRUE COPY OF THE ORDER BEARING<br>NO.B/818/2017 DATED 24.02.2018 ISSUED<br>BY THE 3RD RESPONDENT.  |
| Exhibit P2 | TRUE COPY OF THE LETTER BEARING<br>NO.F1/15870/2019 DATED 11.11.2019<br>ISSUED BY THE 2ND RESPONDENT TO THE 3RD<br>RESPONDENT.               |
| Exhibit P3 | TRUE COPY OF THE LETTER BEARING<br>NO.B/127/19 DATED 31.12.2019 ISSUED BY<br>THE 3RD RESPONDENT TO THE HEADMISTRESS<br>OF CMS LPS, VENGALAM. |
| Exhibit P4 | TRUE COPY OF ORDER BEARING NO.B/1275/19<br>DATED 06.03.2020 ISSUED BY THE 2ND<br>RESPONDENT.   |
| Exhibit P5 | TRUE COPY OF THE REPRESENTATION DATED<br>11.08.2020 SUBMITTED BY THE WRIT<br>PETITIONER BEFORE THE 1ST RESPONDENT.                           |
| Exhibit P6 | TRUE COPY OF THE LETTER DATED<br>23.09.2021 SUBMITTED BY THE WRIT<br>PETITIONER BEFORE THE MINISTER,<br>DEPARTMENT OF EDUCATION.             |
| Exhibit P7 | TRUE COPY COMMUNICATION<br>NO.A3/65/2021/GEDN DATED 19.01.2022<br>ISSUED BY THE 1ST RESPONDENT.  |
| Exhibit P8 | TRUE COPY OF COMMUNICATION BEARING<br>NO.L-2/456/2018/GEDN DATED 18.10.2019<br>ISSUED BY THE 1ST RESPONDENT.                                 |
| Exhibit P9 | TRUE COPY OF GO(P) NO.290/2014/197/FIN<br>DATED 16.07.2017 ISSUED BY THE 1ST<br>RESPONDENT.  |