

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 29TH DAY OF FEBRUARY 2024/10TH PHALGUNA, 1945

WP (C) NO. 7821 OF 2023

PETITIONER:

BEENA C THAMBI, AGED 34 YEARS,
LOWER PRIMARY SCHOOL TEACHER JANAKEEYA
VIDHYALAYAM MACHAD, MANALITHARA, THRISSUR, PIN -
680003, RESIDING AT KANJIRATHINKAL HOUSE,
KANIPAYOOR P O, KUNNAMKULAM - 680517.

BY ADVS.M/S.M.A.FAYAZ, M.VISHNUPRIYA &
C.B.ABHINAVA

RESPONDENTS:

- 1 STATE OF KERALA,
REP. BY SECRETARY TO THE GOVERNMENT, GENERAL
EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.
- 2 DIRECTOR OF GENERAL EDUCATION,
O/O DIRECTOR OF GENERAL EDUCATION, JAGATHI,
THIRUVANANTHAPURAM, PIN - 695014.
- 3 DEPUTY DIRECTOR OF EDUCATION THRISSUR,
O/O DEPUTY DIRECTOR OF EDUCATION THRISSUR,
THRISSUR, PIN - 680003.
- 4 DISTRICT EDUCATIONAL OFFICER CHAVAKKAD,
O/O DISTRICT EDUCATIONAL OFFICER CHAVAKKAD,
THRISSUR, PIN - 680506.

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- 5 ASSSTANT EDUCATIONAL OFFICER VADAKKANCHERRY,
 O/O THE ASSISTANT EDUCATIONAL OFFICER
 VADAKKANCHERRY, THRISSUR, PIN - 680582.
- 6 ASSISTANT EDUCATIONAL OFFICER VALAPPAD,
 O/O THE ASSISTANT EDUCATIONAL OFFICER VALAPPAD,
 THRISSUR, PIN - 680567.
- 7 MANAGER,
 AM UPS KOORIKUZHI, JANAKEEYA VIDHYALAYAM MACHAD,
 AUP SCHOOL PALLIKKAL PALLAM, THRISSUR, PIN -
 679532.
- 8 HEADMASTER,
 JANAKEEYA VIDHYALAYAM MACHAD, MANALITHARA,
 THRISSUR, PIN - 680003.
- 9 HEADMISTRESS,
 AM UPS KOORIKUZHI THRISSUR, THRISSUR,
 KAIPAMANGALAM, PIN - 680681.

SMT.NISHA BOSE,SR.G.P.
ADV. SRI. C.D.DILEEP
ADV. SMT. SHYLAJA VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

MOHAMMED NIAS C. P. , J.

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W. P. (C) No. 7821 of 2023

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Dated this the 29th day of February, 2024

J U D G M E N T

The petitioner was initially appointed with effect from 3.6.2013 and the said appointment was approved, as per Ext.P-1 however limiting the period to 14.7.2016. Later, after a series of litigations, ultimately by Ext.P-12 dated 4.2.2023, the Director, on a clarification sought for by the AEO, granted approval for the entire period from 1.6.2017 onwards. The Writ Petition has been filed for directing the respondents to sanction and disburse the current salary and also, the arrears of salary from 1.5.2018 based on the approval granted, vide Exts.P-9, P-11 & P-12. There is also a prayer to release the salary from 3.6.2013 to 14.7.2016, which was withheld and remitted to the Provident Fund with a lock-in period of 5 years with 8.5% statutory interest.

2. By an interim order dated 30.3.2023, a direction was issued to

respondents 1 to 6 to disburse the arrears of salary for the period from 3.6.2013 to 14.7.2016 within two months with a further direction to continue to pay the current salary.

3. A statement has been filed by the learned Government Pleader stating that pursuant to the orders of this Court, a sum of Rs.8,04,866/- has been credited to the PF Account of the petitioner on 28.9.2023, which represents the arrears of salary for the period from 3.6.2013 to 14.7.2016. It is also stated that the arrears from 1.4.2018 to 13.2.2019 towards the salary, an amount of Rs.3,59,666/- was deposited in the Sub Treasury and after deducting an amount of Rs.34,660/-, an amount of Rs.3,25,006/- was paid to the petitioner.

4. Now what remains is the salary for the period from 11.2.2019 to 30.3.2023, when this Court passed the order mentioned above. The arrears of salary for this period have to be paid by the Government and the reason put forth by them, for not paying so far, is that the petitioner did not mark the attendance in any of the schools. The Manager must be held responsible for the above situation, as he had challenged the orders of the educational authorities. Accordingly, there will be a

direction to respondents 1 to 6 to disburse the salary for the period from 11.2.2019 till 30.3.2023 (deducting the amounts already paid, if any) within 4 months from the date of receipt of a copy of this judgment.

5. It will be open to the Government to recover the amounts from the Manager if he was responsible for the Teacher not marking the attendance in any of the schools. The work was extracted from the Teacher and there cannot be any justification for the Government for not paying the salary to the petitioner.

6. The petitioner shall also be entitled to all consequential benefits based on the approval granted as per Ext.P-12.

The Writ Petition is disposed of, as above.

Sd/-

MOHAMMED NIAS C. P.,
JUDGE

MMG

APPENDIX OF WP(C) .NO.7821/2023

PETITIONER'S EXHIBITS:

EXHIBIT P1	ORDER NO.C/425/19/K.DIS 25.03.2019 ISSUED BY THE 6TH RESPONDENT	DATED
EXHIBIT P2	TRUE COPY OF NO.SC(2)/81733/2014/DPI 21.11.2014	ORDER DATED
EXHIBIT P3	TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE 7TH RESPONDENT 06.06.2019	DATED
EXHIBIT P4	TRUE COPY OF NO.F2/25622/2019/DPI/K.DIS 24.10.2019 ISSUED BY THE 2ND RESPONDENT	ORDER DATED
EXHIBIT P5	TRUE COPY OF G.O(RT)NO.1875/2020/G.EDN DATED 09.06.2020	
EXHIBIT P6	TRUE COPY OF THE JUDGMENT IN W.P(C)NO.35095/2019 DATED 04.12.2020	
EXHIBIT P7	TRUE COPY OF THE JUDGMENT IN WA 266/2021 DATED 09.02.2021	
EXHIBIT P8	TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE 7TH RESPONDENT 24.08.2021	DATED
EXHIBIT P9	TRUE COPY OF ORDER NO.C/18664/2021 DATED 24.09.2021	

EXHIBIT P10	TRUE COPY OF THE LETTER NO.C/11/2020 DATED 04.10.2021 ISSUED BY THE 6TH RESPONDENT
EXHIBIT P11	TRUE COPY OF ORDER NO.14/2021 DATED 28.12.2021
EXHIBIT P12	TRUE COPY OF ORDER NO.E3/13481/DGE DATED 04.02.2023
EXHIBIT P13	TRUE COPY OF THE JUDGMENT REPORTED IN VALSALA KUMARI VS. STATE OF KERALA & OTHERS 2011(3) KHC 275 DATED 23.06.2011

RESPONDENTS'S ANNEXURES:

ANNEXURE	R5 (A) TRUE COPY OF THE ORDER NO.D/793/2022 DATED 15.12.2023 BY ASSISTANT EDUCATIONAL OFFICER WADAKKANCHERY
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