



GOVERNMENT OF KERALA
Abstract

General Education - Establishment - Judgment dated 18.01.2011 in WP(C) No.1747/2011. filed by Smt.Vimala.K., HM(u/s), G.B.HS, Haripad - Complied with - Orders Issued.

GENERAL EDUCATION (C) DEPARTMENT

G.O.(Rt)No: 2981 /2011/GEdn. Dated, Thiruvananthapuram, 23/07/2011

- Read: 1. Judgment dated 18.01.2011 in WP(C) 1747/11 filed by Smt.Vimala.K.
2. Appeal Petition dated 04.06.2011 of Smt.Vimala, H.M.(u/s), GBHS, Haripad.

ORDER

As per the judgment read as first paper above, the Hon'ble High Court directed the petitioner to file a representation/appeal before the Government within a period of 2 weeks along with a copy of the judgment and directed Government to consider the above representation/appeal and to pass appropriate orders within a period of six weeks from the date of receipt of the same. As such Smt.Vimala submitted an appeal petition read as second paper above. The petitioner requested for a personal hearing in the matter. Accordingly she was heard on 20.07.11. The representatives of the Director of Public Instruction and the Deputy Director of Education, Alappuzha were also present.

In the hearing the petitioner argued as follows:-

The pay fixation done by the petitioner (HM) were found in order by Deputy Director of Education and communicated to the school. But the teachers Smt. Sujatha & Smt Puspakumari made appeal to the Deputy Director of Education even without marking a copy to the H.M. The Deputy Director of Education took a different stand that the fixation was verified without option exercised and the fixation order. The verification of fixation of pay can be done only with the option exercised and fixation statement. Taking a false stand Deputy Director of Education directed her to refix the pay in their favour by specifying mode of fixation. Since the fixation

proposed was irregular she had refixed as per GO(P) 256/06/fin dated 12.06.06. Both the teachers refused to receive the money and the petitioner refunded the same. Without knowing true facts and without affording an opportunity to explain the legal position, the Director of Public Instruction suspended the petitioner from service on 04.01.11 and Smt.Sujatha.K Put in full additional charge of HM. Hence she has requested to reinstate her in service without further delay and to render justice to her in accordance with Law.

The Director of Public Instruction has reported in the matter as follows:-

The Deputy Director of Education, Alappuzha has objected the pay fixation of Smt.Pushpakumari and Smt.K.Sujatha and directed to clear the audit objections. As per GO(P) No.259/06 fin dated 12.06.06 Para III, those who were sanctioned 18 years of grade in the revised scale of HSA (senior grade) on Rs. 5500-9075 on or after 01/07/04 but before 24/03/06. Such persons have two option and para (16) of the GO(P) No. 145/06/Fin dated 25.03.06 is not applicable in the above case as stated by the petitioner. The petitioner did not obey the order of the Deputy Director of Education, Alappuzha to refix the pay of the HSAs in terms of GO(P) No.259/06 dated 12.06.06 and by the refusal of the HSAs to accept the salary for the month of April it was refunded on 3/6/10 and further drawl of Salary was withheld. Director of Public Instruction has also reported that the AG has not gone through the provisions in GO(P) No.259/06/Fin dated 12.06.06 and the petitioner has disobeyed the direction of the Director of Public Instruction also. So she was placed under suspension. It has also been reported that the action of the Deputy Director of Education to refixe the salary in terms of GO(P) No.259/06Fin dated 12.06.06 is in order and the action of the petitioner in having with held the salary of the HSAs is irregular and she has refused to obey the instructions from Deputy Director of Education & Director of Public Instruction.

In the matter, the Service Books of Smt.K.Sujatha and Smt.K.Pushpakumary have been verified. It is found that the re-option done by Smt.K.Vimala has been modified and refixation and cancellation of the previous one has been done by Smt.K.Sujatha, who's the full Additional charge in the school. On verifying the Service Books with respect to GO(P) No.259/2006/Fin dated 12.06.2006 it is found that there are two options before the teachers in this issue to opt and refixe the pay as per para 2(iii)

(a) and 2(iii) (b). But Smt. Vimala has refixed the pay in respect of the teachers as per para 2(iii)(a) and the higher authorities instructed her to refix in accordance with para 2(iii)(b) of the above GO. The petitioner argues that the Accountant General has also found nothing wrong in the refixation done by her. In the circumstance the Government have examined the matter in detail in consultation with Finance Department and it is observed as follows.

" Smt. Pushpakumari opted 2004 Pay Revision with effect from 01.07.04 in the scale of 9590-16650 vide option dated 12.04.06 affixed on page 37 of her Service Book Vol. I Revised Option affixed in Page 17 of Service Book II, furnished by her also is with effect from 01.07.04 in the scale 9590 - 16650. As such the revised 2004 pay revision fixation done by the Deputy Director of Education, Alappuzha with effect from 01/07/04 in the scale 10790 -18000 and fixing her pay at Rs.11910/- is not in order and hence it may be cancelled. The refixation done by Smt. Vimala in Smt. Pushpakumari's case with effect from 01.07.04 in the scale 9590-16650 and fixing the pay at Rs.11070/- and granting selection grade on 01.07.04 itself in the scale 10790 -18000 and fixing the pay at Rs.11630 is in order as per provision in Para 2(iii)(a) of GO(P) No.259/06/Fin dated 12.06.06 and hence it may be restored. The excess amount drawn by the incumbent may be recovered from her.

With regard to the case of Smt. K. Sujatha even though she had earlier opted 2004 Pay revision with effect from 01.07.04 vide option affixed on Page 21 of service Book II revised option is seen furnished by her to continue in the pre-revised scale of 5500- 9075 till 15.07.05 from which date corresponding higher scale is opted vide option affixed on Page 23 of Service Book II. As such the 2004 Pay Revision fixation done by the Deputy Director of Education, Alappuzha with effect from 15.07.05 in the scale of 10790- 18000 and fixing her pay at Rs.11350/- in her case is in order vide provision in Para 2 (iii) (b) of GO(P) No.259/06/Fin dated 12.06.06. 2004 Pay Revision /refixation done by Smt. Vimala in Smt. Sujatha's case is not in order. Smt. Vimala may have fixed the incumbents pay based on the earlier option furnished by her with effect from 01.07.04 affixed on page 21 of Service Book II "

From the report of the Director of Public Instruction, it is found that the petitioner was suspended from service for having committed disobedience and insubordination to higher authorities. In view of the

contentions raised by the petitioner in her argument note and the remarks of the Finance Department, it is also found that the stand taken by the petitioner in the refixation of pay in respect of two teachers is almost correct. Hence, Government find no reasons to continue the petitioner under suspension even though the disciplinary action initiated against her is pending. In the above circumstance, Government are pleased to reinstate the petitioner, Smt.Vimala .K.HM(u/s) GBHS,Haripad in service with immediate effect and direct to the DPI to post her as HM in a most convenient place.

The disciplinary action initiated against the petitioner will be completed by the DPI at the earliest.

The judgment of the high Court read above is, thus, complied with.

BY ORDER OF THE GOVERNOR
A. RAMLA BEEVI
DEPUTY SECRETARY TO GOVERNMENT

To

Smt.Vimala.K., HM(u/s), G.B.HS, Haripad (Through DPI ,Tvpm)

The Director of Public Instruction, Thiruvananthapuram

The Deputy Director of Education, Alappuzha,

The Advocate General, Ernakulam (with C.L)

The Principal Accountant General (Audit) Kerala, Thiruvananthapuram

The Accountant General (A&E) Kerala, Thiruvananthapuram

✓ The Director It@ School, Poojappura, Thiruvananthapuram.

Finance Department.(U.O.No.44005/PRCA3/11/Fin.dated.09.06.2011)

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Forwarded By Order

Section Officer