



2025:KER:14025

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 19TH DAY OF FEBRUARY 2025 / 30TH MAGHA, 1946

WP(C) NO. 31132 OF 2023

PETITIONER:

SUNSEA MANJALI

AGED 36 YEARS

***UPST,**

ST. AUGUSTINE HSS, KUTTANELLUR, THRISSUR

DISTRICT - 680014. RESIDING AT MANJALI HOUSE,

**VENDORE, P. O. ALGAPPANAGAR THRISSUR DISTRICT,
PIN - 680302**

***DESIGNATION OF THE PETITIONER IS CORRECTED AS
HST(PS) INSTEAD OF UPST AS PER ORDER DATED
19.02.2025 IN I.A.NO.1/2025**

BY ADVS.

T.T.MUHAMOOD

NAZEER HUZAIN.H

GOKUL R.NAIR

NIKHILA.P

RESPONDENTS:

- 1 STATE OF KERALA
REP.BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
(ANNEXE BUILDING) THIRUVANANTHAPURAM,
PIN - 695004**



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- 2 **DIRECTOR OF GENERAL EDUCATION
DIRECTORATE OF GENERAL EDUCATION,
JAGATHY, THIRUVANANTHAPURAM,
PIN - 695001**
- 3 **DISTRICT EDUCATIONAL OFFICER
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
THRISSUR, PIN - 680020**
- 4 **THE MANAGER
ST. AUGUSTINE HSS, KUTTANELLUR,
THRISSUR DISTRICT, PIN - 680014**

SMT.M.ANIMA, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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JUDGMENT

Dated this the 19th day of February, 2025

The petitioner, who is working as HST (PS) in St. Augustine HSS, Kuttanellur in Thrissur District, is before this Court seeking to quash Ext.P3 order of the 3rd respondent and to direct the 3rd respondent to approve Ext.P2 proposal.

2. The petitioner was initially appointed as UPST on 15.07.2015, which appointment was approved as per Ext.P1. Meanwhile, one Smt. Linda Mathew, HST (PS) proceeded on leave for a period from 01.06.2016 to 14.07.2020. The petitioner was qualified to be promoted as HST (PS) and the petitioner was promoted against that vacancy. The said appointment was approved as per Ext.P1(a).

3. When Smt. Linda Mathew rejoined duty after expiration of the leave, the petitioner was reverted to the post



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of UPST with effect from 15.07.2020. The petitioner states that another regular vacancy of HST (PS) arose consequent to the promotion of one Smt. Anu Anand on 15.07.2021. The petitioner was again promoted as HST against the said vacancy with effect from 15.07.2021. The said appointment was also approved by the Educational Officer as per Ext.P1(b). On declaration of probation, the petitioner's pay was regularised granting increment and fixing pay in accordance with 2019 Pay Revision.

4. The Manager of the School therefore submitted Ext.P2 proposal containing statement of fixation of pay of the petitioner in post of HST (PS). As per Ext.P2, the petitioner's pay was revised and fixed at ₹45,600/- in the scale of pay of ₹41,300-87,000/-, which is attached to the post of HST.

5. The District Educational Officer, however, rejected Ext.P2 proposal stating that the increments were granted reckoning the interrupted service and grant of such increment



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is not irregular, contends the petitioner.

6. The petitioner would submit that the stand taken by the District Educational Officer is incorrect. As per Rule 61(4) of Chapter XIVA KER, all duty in a post on a time scale, whether continuous or interrupted, shall count for increment in that time scale. Ext.P3 is therefore is liable to be set aside, contends the petitioner.

7. Government Pleader entered appearance and resisted the writ petition. The Government Pleader submitted that the petitioner was initially appointed as UPST from 15.07.2015. Later, she was promoted as HST (PS) in a leave vacancy from 01.06.2016 to 14.07.2020. Thereafter, the petitioner was reverted as UPST from 15.07.2020 to 14.07.2021 and was again promoted as HST (PS) from 15.07.2021 onwards in a promotion vacancy. The petitioner has continuous service from 15.07.2015 in the post of UPST and HST.



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8. On behalf of respondents 1 to 3, it is submitted that the petitioner has filed this writ petition in order to protect the pay in HST post. According Rule 52 of Chapter XIVA, KER, the Teachers who are appointed in regular vacancy and lost their posts alone are eligible for pay protection on re-appointment. In this case, there is no loss of post in the entry cadre of UPST. What is involved is promotion to a higher post. Therefore, the petitioner is not entitled to get pay protection as claimed. The Government Pleader pointed out that the issue of increment has not been stated as a reason in Ext.P3. The rejection of the proposal is for the reason that the petitioner has claimed pay protection.

9. I have heard the learned counsel for the petitioner and the learned Government Pleader representing respondents 1 to 3.

10. Ext.P2 is the proposal for fixation of pay on promotion of the petitioner as HST (PS). Ext.P2 proposal has



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been made under Rule 28A Part I KSR. A perusal of Ext.P2 would indicate that on reversion of the petitioner from the post of HST to the post of UPST with effect from 15.07.2020, the Manager has not sought for any pay protection. The petitioner's pay in the HST cadre after the Pay Revision as per Government Order dated 10.02.2021 was ₹45,600/- as on 01.06.2020. In the proposal, it is stated that on reversion to UPST post with effect from 15.07.2020, the pay has been brought down to the scale of UPST.

11. However in Ext.P2, the Manager has proposed to grant four increments in respect of the earlier service of the petitioner. The question is whether these four increments can be granted counting broken service of the petitioner. The petitioner would submit that as per Rule 61(4) of Chapter XIV A of KER, all duty in a post on a time scale, whether continuous or interrupted shall count for increment in that time scale.



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12. Whether Rule 61(4) is to be applied to the facts of the case and whether the petitioner is entitled to the increments proposed in Ext.P2, are matters to be decided. As Ext.P3 is obviously a rejection based on a wrong statement that the petitioner is claiming pay protection, I am of the view that Ext.P3 can be set aside and the District Educational Officer can be directed to reconsider Ext.P2 proposal adverting to Rule 61(4) of Chapter XIVA KER also.

13. Accordingly, Ext.P3 is set aside. The 3rd respondent- District Educational Officer is directed to reconsider Ext.P2 proposal and take appropriate decision adverting to Rule 61(4) of Chapter XIVA KER also. The petitioner would contend that in identical circumstances, the Government has issued G.O.(Rt.) No.2007/2021.G.Edn. dated 26.02.2021, where such broken periods of service of another Teacher has been reckoned. While taking a decision, the District Educational Officer shall advert to the said



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Government Order dated 26.02.2021 also. The petitioner shall serve a copy of this writ petition, a copy of Government Order dated 26.02.2021 and a certified copy of this judgment on the District Educational Officer for taking further action. A decision in this regard shall be taken within a period of two months.

The writ petition is disposed of as above.

Sd/-

N.NAGARESH
JUDGE

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APPENDIX OF WP(C) 31132/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF ORDER NO. B5-10257/17/KDIS DATED 19-02-2018 ISSUED BY THE 3RD RESPONDENT
Exhibit P1(a)	TRUE COPY OF THE ORDER NO. B5-15896/2020 DATED 03-10-2020 ISSUED BY THE 3RD RESPONDENT
Exhibit P1(b)	TRUE COPY OF THE ORDER NO. B5/24379/2021 DATED 23-09-2021 ISSUED BY THE 3RD RESPONDENT
Exhibit P2	TRUE COPY OF THE PROPOSAL, CONTAINING THE STATEMENT OF FIXATION OF PAY OF THE PETITIONER IN THE POST OF HST (PS)
Exhibit P3	TRUE COPY OF ORDER NO. DEOTSR/949/2023-B5 DATED 22-08-2023