

ITEM NO.11

COURT NO.5

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).11797/2007

(From the judgement and order dated 28/05/2007 in WA No.2026/2006 of The HIGH COURT OF KERALA AT ERNAKULAM)

SABI AUGUSTINE

Petitioner(s)

VERSUS

JOSEPH ABRAHAM & ORS.

Respondent(s)

(With appln(s) for directions,permission to file additional documents and prayer for interim relief and office report)

Date: 10/07/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. V. Giri, Sr. Adv.
 Mr. K. Rajeev,Adv.

For Respondent(s) Mr. Romy Chacko,Adv.
 Mr. Ranjith K.C. ,Adv
 Ms. Liz Mathew ,Adv

UPON hearing counsel the Court made the following
O R D E R

This petition is directed against the judgment of the Kerala High Court, whereby the writ appeal filed by the petitioner was dismissed and the order passed by the learned Single Judge quashing the decision taken by the Director of

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Higher Secondary Education and the State Government in the matter of appointment on the post of Higher Secondary School Teacher in Political Science against the vacancy which had become available on 15.07.2007 was upheld.

At the commencement of hearing, Shri Romy Chacko, learned counsel for respondent no.1 gave out that during the pendency of the special leave petition, the State Government

implemented the direction given by the learned Single Judge and promoted his client as Higher Secondary School Teacher in Political Science with effect from 11.03.2008 and in his place the petitioner was appointed as High School Assistant. Shri Chacko further stated that his client has retired from service.

Shri V. Giri, learned senior counsel appearing for the petitioner did not contest the statement made by Shri Chacko, but submitted that despite her appointment on the lower post of High School Assistant with effect from 12.3.2008, the official respondents have not paid her salary in the scale prescribed for that post.

Learned counsel appearing for the State of Kerala submitted that salary was not paid to the petitioner because she did not give her consent for being posted as High School Assistant and her appointment on that post was not approved. However, she conceded that the petitioner had worked as High School Assistant with effect from 11.3.2008 till her re-promotion as Higher Secondary School Teacher in 2011.

In view of the statements made by the learned
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counsel and the fact that respondent no.1 has already retired from service, we do not consider it necessary to pronounce upon the correctness of the impugned judgment and the order passed by the learned Single Judge and dispose of this petition as infructuous with the direction to the official respondents and the management of the school to pay salary to the petitioner in the scale prescribed for the post of High School Assistant till the date of her re-promotion as Higher Secondary School Teacher. The needful be done within a period of three months from today.

It is needless to say that the petitioner shall be entitled to the benefit of continuity in service.

Court Master

Court Master