

ITEM NO.44

COURT NO.12

SECTION XI-A

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 (C) No(s). 4858-4859/2020

(Arising out of impugned final judgment and order dated 17-10-2019 in WA No. 316/2018 17-10-2019 in WA No. 2046/2018 passed by the High Court Of Kerala At Ernakulam)

JANCY M.T.

Petitioner(s)

VERSUS

THE MANAGER SREE KRISHNA HIGH SCHOOL & ORS.

Respondent(s)

(IA No. 167634/2022 - EXEMPTION FROM FILING O.T.)

Date : 13-03-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Santosh Krishnan, Adv.
Mr. Zulfikar Ali P.s., Adv.
Ms. Lakshmi Sree P., Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Kamlendra Mishra, AOR

For Respondent(s) Mr. P. A. Noor Muhamed, AOR
Mr. K.p. Mohamad Shareef, Adv.
Mrs. Giffara S., Adv.
Mr. Abdul Shukoor Mundambra, Adv.
Mr. Shereef K.a., Adv.

Mr. C. K. Sasi, AOR
Mr. Abdulla Naseeh V T, Adv.
Ms. Meena K Poullose, Adv.

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

Heard the learned counsel for the petitioner as also the learned counsel for the respondents and perused the petition papers.

A perusal of the order impugned would disclose that the Division Bench of the High Court after referring to the relevant rules and the situation that had arisen, had arrived at the conclusion that the petitioner herein, cannot be granted the relief since the vacancy to which the petitioner was appointed had not arisen as the promoted candidate was not granted the approval by the competent authority to the promoted post. Hence, to that extent, we see no reason to interfere.

However, in the peculiar facts and circumstances of the instant case, we note that notwithstanding the approval being granted by the Government, the Respondent no.1-School had availed the services of the petitioner and extracted work between the period 02.06.2008 to 29.12.2009. It is no doubt true that as contended by the learned counsel for the respondent no.1-School, the payment of salary to the petitioner would arise on the approval being granted by the Government. In that regard, in the facts, we note that since the approval of the Government had not been granted, in any event, the petitioner would not be entitled to the Government's pay scale and the benefits thereto.

However, the respondent no.1-School, having availed the services of the petitioner during the period as indicated above, for the said period, the salary payable to a teacher in the respondent no.1-School to a post which is not aided, is required to be paid. To that extent, we direct that the respondent no.1 -School shall pay the salary at the said rate to the petitioner herein, for having extracted work between the period 02.06.2008 to 29.12.2009. The said payment shall be quantified and be paid by the respondent

no.1-School within two months from this date.

Petitions are accordingly, disposed of.

Pending application(s), if any, shall stand disposed of.

**(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT**

**(DIPTI KHURANA)
ASSISTANT REGISTRAR**