



2024/KER/19340

**C.R.**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

WEDNESDAY, THE 13<sup>TH</sup> DAY OF MARCH 2024 / 23RD PHALGUNA,

1945

WA NO. 205 OF 2024

AGAINST THE JUDGMENT DATED 17.01.2023 IN WP(C) NO.30925  
OF 2023 OF HIGH COURT OF KERALA

APPELLANTS/PETITIONRES:

- 1 THE MANAGER, AGED 56 YEARS, THE MANAGER, S.N.M  
HIGHER SECONDARY SCHOOL, PURAKKAD, ALAPPUZHA-  
688561, PIN - 688 561
- 2 USHAS.S, AGED 57 YEARS, USHAS.S, RETD.  
HEADMISTRESS, HEADMISTRESS DURING 01-06-2021 TO  
30-04-2022, S.N.M HIGHER SECONDARY SCHOOL,  
PURAKKAD-688561 ALAPPUZHA. RESIDES IN  
MADHAVAMANDIRAM, VETTUVENI, NEAR RAILWAY STATION,  
HARIPAD, ALAPPUZHA-690514, PIN - 690 514
- 3 CHANDRIKA.K.C, AGED 55 YEARS, CHANDRIKA.K.C,  
HEADMISTRESS SINCE 01-04-2023 S.N.M HIGHER  
SECONDARY SCHOOL, PURAKKAD, ALAPPUZHA-688561,  
PIN - 688 561
- 4 ASHADUTT.A.N, AGED 53 YEARS, ASHADUTT.A.N, HIGH  
SCHOOL TEACHER (MATHEMATICS) S.N.M HIGHER  
SECONDARY SCHOOL, PURAKKAD, ALAPPUZHA.-688 561
- 5 RAVILAL .T.R, AGED 44 YEARS, RAVILAL .T.R, HIGH  
SCHOOL TEACHER (ENGLISH) S.N.M HIGHER SECONDARY  
SCHOOL, PURAKKAD, ALAPPUZHA-688 561
- 6 SUNITHA.M, AGED 43 YEARS, SUNITHA.M, HIGH SCHOOL  
TEACHER (SOCIAL SCIENCE) S.N.M HIGHER SECONDARY  
SCHOOL, PURAKKAD, ALAPPUZHA-688 561

BY ADVS.



W.A. Nos.205 and 188 of 2024

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GEORGE ABRAHAM  
JOBY D JOSEPH  
MARY CATHERINE PRIYANKA P.S.

RESPONDENTS/RESPONDENTS :

- 1 STATE OF KERALA, REP. BY PRINCIPAL SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANTHAPURAM-695 001.
- 2 THE DIRECTOR OF GENERAL EDUCATION, FORMERLY THE DIRECTOR OF PUBLIC INSTRUCTIONS, JAGATHI, THIRUVANTHAPURAM-695 014.
- 3 THE DEPUTY DIRECTOR OF GENERAL EDUCATION, ALAPPUZHA, NEAR CIVIL STATION, ALAPPUZHA- 688 001
- 4 THE DISTRICT EDUCATIONAL OFFICER, MEDICAL COLLEGE JUNCTION, ALAPPUZHA- 688 005
- 5 R. SREEREKHA, AGED 42 YEARS, HIGH SCHOOL TEACHER(ENGLISH) S.N.M HIGHER SECONDARY SCHOOL, PURAKKAD, ALAPPUZHA.-688561

ADV.VINITHA B SR GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14.02.2024, ALONG WITH WA.188/2024, THE COURT ON 13.03.2024 DELIVERED THE FOLLOWING:



W.A. Nos.205 and 188 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

WEDNESDAY, THE 13<sup>TH</sup> DAY OF MARCH 2024 / 23RD PHALGUNA,  
1945

WA NO. 188 OF 2024

AGAINST THE ORDER/JUDGMENT DATED 17.01.2024 IN WP(C)  
NO.30636 OF 2023 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 5 TO 7:

- 1 THE MANAGER, S.N.M. HIGHER SECONDARY SCHOOL,  
PURAKKAD, PURAKKAD, .P.O, ALAPPUZHA, PIN - 688  
561
- 2 SMT. USHAS S, RETIRED HEADMISTRESS (NOT  
APPROVED) S N M HIGHER SECONDARY SCHOOL,  
PURACKAD, PURACKAD P O, ALAPPUZHA DISTRICT  
(RESIDING AT MADHAVAM,VETTUVENI, HARIPAD P O  
ALAPPUZHA DISTRICT-690 514
- 3 SMT. K.C. CHANDRIKA, HEADMISTRESS (NOT APPROVED)  
S N M HIGHER SECONDARY SCHOOL, PURACKAD,  
PURACKAD P O, ALAPPUZHA DISTRICT, PIN - 688 561

BY ADVS.

GEORGE ABRAHAM

JOBY D JOSEPH

MARY CATHERINE PRIYANKA P.S.

RESPONDENTS/RESPONDENTS 1 TO 4:

- 1 SREEREKHA.R, AGED 43 YEARS, W/O ANIL KUMAR K.P,  
HIGH SCHOOL TEACHER (ENGLISH), S.N.M. HIGHER  
SECONDARY SCHOOL, PURACKAD, PURACKAD P.O.,



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ALAPPUZHA DISTRICT, PIN - 688 561

2 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO  
GOVERNMENT GENERAL EDUCATION DEPARTMENT,  
SECRETARIAT ANNEX II THIRUVANANTHAPURAM, PIN -  
695 001

3 THE DIRECTOR OF GENERAL EDUCATION, JAGATHY,  
THIRUVANANTHAPURAM, PIN - 695 014

4 THE DEPUTY DIRECTOR OF EDUCATION, CIVIL STATION,  
ALAPPUZHA DISTRICT, PIN - 688 001

5 THE DISTRICT EDUCATIONAL OFFICER, NEAR  
GOVERNMENT HIGHER SECONDARY SCHOOL, ALAPPUZHA  
DISTRICT, PIN - 688 011

ADV. VINITHA B SR GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
14.02.2024, ALONG WITH WA.205/2024, THE COURT ON  
13.03.2024 DELIVERED THE FOLLOWING:



W.A. Nos.205 and 188 of 2024

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**C.R.**

**A.MUHAMED MUSTAQUE  
&  
SHOBA ANNAMMA EAPEN, JJ.**

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**Writ Appeal No.205 and 188 of 2024**  
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**Dated this the 13<sup>th</sup> day of March, 2024**

## **J U D G M E N T**

### **A. Muhamed Mustaque, J.**

These appeals arise from the common judgment of the learned Single Judge. The first appellant is the manager of an aided school, 2<sup>nd</sup> and 3<sup>rd</sup> appellants are the headmistresses appointed by him and the appellants 4 to 6 are the senior teachers. The dispute arose consequent upon the vacancy arose to the post of headmasters on 01.06.2021 in S.N.M Higher secondary school, Purakkad, an aided school. Sreerekha raised a claim for appointment. Her claim for appointment was overlooked by the manager, holding that she did not have continuous service of 12 years, a qualification prescribed for appointment as headmistress as contemplated



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under Rule 44 A(1) of Chapter 14A of Kerala Education Rules. The department did not accept the objection made by the manager as against the claim raised by Sreerekha. The department, therefore, refused the approval of appointment made by the manager overlooking the claim of Sreerekha.

Sreerekha was appointed in a leave vacancy w.e.f. 13.07.2007. Thereafter, w.e.f. 01.06.2012, she was appointed in regular vacancy. The case of the manager is that her service can be counted only from 01.06.2012. The manager relied on the judgment of this Court in ***Rajamma P.R. v. Manager, St. George High School and Others [2012 (3) KHC 27]***. A division bench of this Court in above dictum held that in reckoning continuous service, broken period of service rendered in same school or other school in a leave vacancy cannot be clubbed with regular service. The learned Single Judge noted that the judgment as above was based on the premise that, when there is a break in service and there is no continuity of 12 years, different spells stretching to 12 years cannot be treated as a 12 years continuous service. Therefore, the above judgment has no application in this matter. There is no dispute in this case that Sreerekha had



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continuous service, since her appointment was in the leave vacancy. If the appointment was in substantial vacancy, and such teacher had continuous service of 12 years, then it can be said that the teacher has qualification. Admittedly, the teacher served without any break. Merely for the reason that her initial appointment was in a leave vacancy and followed in regular vacancy, it does not mean that there is a break in service. It is to be noted that law does not recognise different spells of service having interval to have a continuity, but only refers continuous service without any interval. Since Sreerekha had continuous service without any break, she is entitled to be appointed as headmistress. Hence, no interference is warranted in these appeals and the same stand dismissed.

**Sd/-**

**A.MUHAMED MUSTAQUE  
JUDGE**

**Sd/-**

**SHOBA ANNAMMA EAPEN  
JUDGE**

**PR**



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APPENDIX OF WA 205/2024

PETITIONER ANNEXURES

- Annexure A                    A COPY OF THE APPEAL NO. 75/2023  
PREFERRED BY THE MANAGER, THE 1ST  
APPELLANT BEFORE THE DEPUTY DIRECTOR  
OF EDUCATION, ALAPPUZHA DATED 5/6/2023
- Annexure B                    A COPY OF THE ADDITIONAL PETITION  
DATED NIL FILED BY THE MANAGER BEFORE  
THE 3RD RESPONDENT
- Annexure C                    A COPY OF THE GOVERNMENT ORDER NO.  
G.O(MS) NO. 20/2023 DATED 21/10/2023
- Annexure D                    A COPY OF THE CERTIFICATE ISSUED BY  
THE KERALA PUBLIC SERVICE COMMISSION  
IN FAVOUR OF THE 3RD APPELLANT DATED  
31/1/2022
- Annexure E                    A COPY OF THE CERTIFICATE ISSUED BY  
THE KERALA PUBLIC SERVICE COMMISSION  
DATED 31/1/2022
- Annexure F                    A COPY OF THE CERTIFICATE ISSUED BY  
THE KERALA PUBLIC SERVICE COMMISSION  
IN FAVOUR OF THE 4TH APPELLANT DATED  
20/1/2022
- Annexure G                    A COPY OF THE CERTIFICATE ISSUED BY  
THE KERALA PUBLIC SERVICE COMMISSION  
IN FAVOUR OF THE 4TH APPELLANT DATED  
20/1/2022
- Annexure H                    A COPY OF THE CERTIFICATE ISSUED BY  
THE KERALA PUBLIC SERVICE COMMISSION  
DATED 20/1/2022