

20.10.2022

From:

C. Beena
D/o Late Gopalan Nambiar
Aged 55 years, Chengottil House,
Koyakkad, Oravil PO, Via Naduvannur, Kozhikode District

To

Director of General Education
Jagathi
Thiruvananthapuram - 695 014

Sub: Fixation of the date of appointment as Hindi Teacher under the management of Naduvannur South AMUP School w.e.f. 14.06.2004 instead of 26.07.2010 fixed by the Manager as per order dated 20.10.2010

Respected Sir,

My father late Gopalan Nambiar had been working in Naduvannur South AMUP School, Koilandy Taluk in Kozhikode District as Assistant Teacher. My father had worked for a period of 31 years, 7 months and 17 days and he died on 17.09.1977 when I was a minor. When I became major, I put in application for a compassionate appointment as a Hindi Teacher under Rule 51B, Chapter X of the Kerala Education Rules on 15.07.1998.

2. At that time, there was a claimant under Rule 51A namely O. Beena and another stranger Smt. Smitha, who had been appointed during the pendency of litigation before the Hon'ble High Court of Kerala and after spate of litigation, the Hon'ble High Court as per the judgement in WPC 35068 of 2007 dated 09.12.2008, had crystallized my right under rule 51B, prior to that of Smt O. Beena under Rule 51A and I am entitled to be given a posting from 14.06.2004

on which date the stranger Smt Smitha was appointed. Copy of that judgement in W.P.(C) No. 35068 of 2007 dated 09.12.2008 is produced herewith which is marked as **Exhibit P1**. In para 15, it was mandated since Smt. Smitha was appointed w.e.f. 14.06.2004 in the vacancy which arose on 31.03.2004, right under Rule 51B has to take precedence under rule 51A claimant.

3. This judgement was further upheld in W.A. No. 519 of 2009 by the judgement of the Division Bench dated 16.03.2009. In that judgement, it was taken note that appointment made in the vacancy of Hindi Teacher on 14.06.2004 had no right to get that post. It was reiterated in that judgement that 51A claimant who was appointed between 05.10.1998 to 05.12.1998 would be eligible to claim any future vacancy that may be available after accommodating me against rule 51B. Copy of that judgement dated 16.03.2009 in W.A. No. 519 of 2009 is marked **Exhibit P2**.

4. Smt. Smitha had also preferred WA No. 1299 of 2009 which was also dismissed as per judgement dated 22.07.2009. Copy is produced herewith as **Exhibit P3**.

5. After the disposal of the above Writ Appeals, I requested AEO, DEO of Kozhikode District and Manager of the School as per letter dated 16.05.2009 that I may be appointed to the post of Hindi Teacher. At that time, I was informed WA 1299 of 2009 filed by Smt. Smitha was pending before the Hon'ble High Court. After the dismissal of that Writ Appeal, I again approached by filing further representation on 03.08.2009. Copy of the representation is marked as **Exhibit P4**.

6. Despite the Order that has been passed by the Government in my favour in 2007 which had been confirmed by the Hon'ble High Court in the Writ Petition as well as in Writ Appeals, since no action was taken to terminate Smt. Smitha, who is not a legitimate claimant either under Rule 51A or 51B of KER Rules, I was compelled to approach the Hon'ble High Court by filing W.P.(C) No. 9652 of 2010 for giving direction to the Manager to appoint me forthwith and for reporting compliance. As per the interim order dated 05.04.2010, the Hon'ble High Court in W.P.(C) 9652 of 2010 issued an interim direction to appoint me with effect from the date when school reopened for the year 2004-05 within two weeks and forward the same to DEO of Kozhikode for his approval. Copy of that interim order is marked as **Exhibit P5**.

7. Ext P5 interim order had been challenged by the Manager in W.A. No. 1110 of 2010. It was submitted on behalf of the Manager that Smitha had SLP before the Hon'ble Supreme Court and if the appeal is allowed, I will not be entitled to get the appointment. The Division Bench was pleased to dispose of the WA No. 1110 of 2010 with a direction to appoint me subject to the judgement of the Supreme Court. Since School had commenced functioning, Manager was directed to issue appointment order with retrospective effect. Freedom was left opened to the Manager as well as myself to raise all contentions in the Writ Petition pending before the learned Single Judge. Copy of this Judgement is marked **Exhibit P6**.

8. The Special Leave Appeal CC 20784 of 2009 filed by Smt. Smitha came up for consideration initially for condonation of delay. On 05.02.2010 delay was condoned. Subsequently, on 08.03.2010, SLP came up for consideration for

hearing. SLP was dismissed on that day. Copy of the order dated 08.03.2010 is marked as **Exhibit P7**.

9. Even though the Manager was party before the Supreme Court and he was well aware of the dismissal of the SLP P7 dated 08.03.2010, in Ext P6 Writ Appeal this was not brought forth to the notice of the Division Bench and judgement was happened to be passed on 30.06.2010, for giving appointment subject to the outcome of the SLP.

10. In the above circumstances, I was again compelled to approach the Hon'ble High Court by filing W.P.(C) No. 9652 of 2010(F). On 27.06.2016, the learned Single Judge of the Hon'ble High Court closed the writ petition since the Manager submitted before the Court that Manager had already given me the appointment w.e.f. the date when the school was reopened for the year 2004-05 and had forwarded the order of appointment for approval. It was also submitted on behalf of the Manager, in view the above direction since I had already been appointed, my case has become infructuous. On the basis of the above submission on behalf of the Manager, Writ Petition was closed. Copy of that judgement is marked as **Exhibit P8**.

11. I am due for retirement on 31.03.2023. Even though from the very beginning there was direction to give me appointment w.e.f. 14.06.2004, since vacancy has arisen, disregarding the same, the Manager had the audacity to give me appointment only w.e.f. 26.07.2010. The appointment order issued by the Manager is produced herewith as **Exhibit P9**. It is also stated in the appointment order I am given appointment in the vacancy of one N.P. Soudhamini Hindi Teacher, who had retired on 31.03.2004.

12. In para 15 of the judgement of the Hon'ble High Court in Ext P1, it is very clearly worded that I had to be appointed in the vanancy that had risen w.e.f. from 14.06.2004. With malafide intention, the date of appointment was not brought to the notice before the learned Single Judge in Ext P8 judgement and that Writ Petition was happened to be closed recording the statement made on behalf of the 4th respondent that I was appointed in view of the direction given by the learned Single Judge in Ext P5 and hence, Writ Petition has become infructuous.

13. I may bring to the kind notice of your good office that the action of the Manager for appointing me only w.e.f. 26.07.2010 is contumacious, thereby, reducing the period of appointment by 6 years, since the vacancy had risen from 31.03.2004.

14. The Manager though was aware about the dismissal of the SLP before the Supreme Court, without disclosing the same, he was instrumental for getting the Writ Appeal disposed of by way of Ext P6 judgement, leaving freedom to the Manager to appoint me subject to the judgement of the Supreme Court. If the true set of facts had been elicited before the Division Bench in Ext P6 judgement, Division Bench would have considered the matter on merits and directed the Manger to give me appointment w.e.f. 14.06.2004 itself.

15. The Manager is solely instrumental for playing fraud thereby denying me the right to enjoy the benefit of Rule 51B claimant under Chapter 14 as he had given appointment illegally to other candidates.

16. Since I am on the verge of retirement which is happening on 31.03.2023, I request your good office to direct the Manager of Naduvannur South AMUP School Koilandy Taluk Kozhikode District to correct Ext P9 order, instead of giving me appointment from 26.07.2010 onwards on the other hand I am entitled to get appointment in the vacancy that has risen on the retirement of N.P. Soudhamini on 31.03.2004.

17. Since the time for preparing the papers for the purpose of pension is due, your good self may direct the Manager forthwith to take action to correct the appointment order Ext P9 in the line aforementioned.

Hoping for speedy recommendation/direction in my case for the reasons mentioned in the paragraphs supra.

Yours sincerely,


C. Beena