

GOVERNMENT OF KERALA
Abstract

Finance Department – WP(C)No.8191/2018 filed by Sri. Hamza P. Perungadan – Judgment complied – Orders issued.

FINANCE (PENSION - B) DEPARTMENT

G.O.(Rt).No. 8500/2018/Fin. Dated, Thiruvananthapuram 12 .10.2018

Read:- 1) Judgment dated 19.03.2018 in WP(C)No.8191/2018.
2) Judgment in D.S. Nakara and others Vs. Union of India (1983(1)SCC 305) of the Hon'ble Supreme Court.

ORDER

Sri. Hamza P. Perungadan working as Full Time Arabic Teacher at Pulianchery South L.P. School, Muchukunnu, Koyilandi, Kozhikode. The petitioner retired on 30.06.2017.

2) The main contention of the petitioner is to reckon his three spells of continuous leave vacancies from 07.06.1990 to 06.06.1995, 07.06.1995 to 06.06.2000 and 07.06.2000 to 30.06.2004 (ie 14 years and 30 days) for pensionary benefits.

3) As per the judgment read 1st above, the Hon'ble High Court has given direction to the 1st respondent to consider and pass appropriate orders on Ext. P8 representation made by the petitioner, strictly in accordance with law, taking note of the law laid down by this Court in Sabu Mathew Case , with notice to the petitioner and also to the Manager of the school, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a certified copy of this judgment. All legal and factual contentious raised by the petitioner are left open to be raised before the 1st respondent at appropriate stage. Accordingly Government have issued notice to the petitioner and the Manager of the

school two times. In response to the second notice reply from the petitioner has been received and the same grievance is also raised by the petitioner in the reply. Reply from the School Manager is not received yet.

4) Several requests are being received in Government to reckon the provisional leave vacancy period for pensionary benefits. As per G.O(P)No.47/2018/Fin dated 21.03.2018, Para 2(ii) states that, the broken spells of provisional service/leave vacancy service rendered by regular aided college staff on regular aided school staff/Government employees in aided schools prior to their entry in regular service shall not be reckoned as qualifying service w.e.f 1st June 2016. This provision is applicable to those in service as on 1st June 2016. In this case the petitioner retired on 30.06.2017. Hence the prior leave vacancy period of the petitioner can not be counted for pensionary benefits. Further against the judgment in the WP(c) No.30167/2016 filed by Sri. Sabu Mathew Case Government have filed Writ Appeal No. 1235/2018 and the same is still pending.

5) In view of the existing pension rules and financial stringency of the Government and also taking into consideration of the judgment of Hon'ble Apex Court in D.S. Nakara case the request of the petitioner to reckon his three spells of leave vacancy period for pension and pensionary benefits cannot be agreed to and is rejected. The Order of the Hon'ble Court of Kerala thus stands complied with.


By Order of the Governor,
K. RAJASREE
ADDITIONAL SECRETARY (FINANCE)

To

The Principal Accountant General (A&E), Thiruvananthapuram.
The Principal Accountant General (G&SSA), Thiruvananthapuram.
The Accountant General (E&RSA), Thiruvananthapuram.
The Advocate General, Kerala, Ernakulam.
Sri. Hamza P. Perungadan.
General Education Department.

Director of Public Instruction, Thiruvananthapuram.
Deputy Director of Education, Kozhikode.
Liaison Officer, Office of the Advocate General, Kerala, Ernakulam,
The Nodal officer, www.finance.kerala.gov.in for publishing on the
website.
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Forwarded/By Order


~~Section Officer~~