



2026:KER:127

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 6TH DAY OF JANUARY 2026 / 16TH POUSHA, 1947

WP(C) NO. 2704 OF 2024

PETITIONER:

CHINCHU LIZEN BABU,
AGED 32 YEARS,
D/o LIZEN BABU, HSST(JR) ,
MSM HSS CHATHINAMKULAM, CHANNANAHOPPE P.O,
KOLLAM DISTRICT,
RESIDING AT ANISH COTTAGE,
AMBALATHUMKLA P.O. ,
EZHUKONE, KOLLAM DISTRICT, PIN-691509.

BY ADV.
SRI.P.RAVEENDRAN

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO
THE GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,
PIN - 695001
- 2 THE DIRECTOR OF GENERAL EDUCATION,
DIRECTORATE OF GENERAL EDUCATION, JAGATHY,
THIRUVANANTHAPURAM, PIN - 695014
- 3 THE REGIONAL DEPUTY DIRECTOR OF HIGHER
SECONDARY EDUCATION,
IVTH FLOOR, CORPORATION BUILDING,
THIRUVANANTHAPURAM,
PIN - 695033



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W.P.(C) Nos.2704 & 9502 of 2024

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4 THE MANAGER,
MSMHSS, CHATHANAMKULAM CHANNANAHOPÉ P.O.,
KOLLAM, PIN - 691014

5 SMITHA P.R.,
HSST (JR)HINDI, MSMHSS, CHATHANAMKULAM
CHANNANAHOPÉ P.O, KOLLAM, PIN - 691014

BY ADVS.
SRI.PREMCHAND R NAIR, SR.GOVERNMENT PLEADER
SRI.ELVIN PETER P.J. (SR.)
SRI.K.R.GANESH
SMT.GOURI BALAGOPAL
SRI.SREELEKSHMI A.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23.10.2025, ALONG WITH WP(C).9502/2024, THE COURT ON
06.01.2026 DELIVERED THE FOLLOWING:



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W.P.(C) Nos.2704 & 9502 of 2024

: 3 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 6TH DAY OF JANUARY 2026 / 16TH POUSHA, 1947

WP(C) NO. 9502 OF 2024

PETITIONER:

SMITHA P.R. ,
AGED 44 YEARS,
W/O.C.BABU, HSST JUNIOR (HINDI) ,
MSM HSS, CHATHINAMKULAM, CHANNANATHOPPU.P.O. ,
KOLLAM-691014, RESIDING AT KRISHNA SUBHADRA,
T.K.M.C. P.O., KOLLAM, PIN - 691005

BY ADVS.
SRI.ELVIN PETER P.J. (SR.)
SRI.K.R.GANESH
SMT.GOURI BALAGOPAL
SRI.SREELEKSHMI A.S.

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE REGIONAL DEPUTY DIRECTOR OF HIGHER
SECONDARY EDUCATION,
4TH FLOOR, CORPORATION BUILDINGS,
THIRUVANANTHAPURAM, PIN - 695033
- 3 THE MANAGER,
MSM HSS, CHATHINAMKULAM,
CHANDANATHOPPU P.O., KOLLAM, PIN - 691014



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4 CHINJU LIZEN BABU,
W/O. ANISH THOMAS, HSST (JUNIOR), MSM HSS
CHATHINAMKULAM, CHANNANAHOPPE.P.O., KOLLAM
RESIDING AT ANISH COTTAGE, AMBALATHUMKLA.P.O.,
EZHUKONE, KOLLAM, PIN - 691509

BY ADV.

SRI.P.RAVEENDRAN

SRI.PREMCHAND R NAIR, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23.10.2025, ALONG WITH WP(C).2704/2024, THE COURT ON
06.01.2026 DELIVERED THE FOLLOWING:



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N. NAGARESH, J.

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W.P.(C) Nos.2704 and 9502 of 2024
.....

Dated this the 6th day of January, 2026

J U D G M E N T

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W.P.(C) No.2704/2024 has been filed by the petitioner, who is working as HSST (Junior) Chemistry in the MSM HSS, Chathinamkulam, Kollam. The petitioner seeks to declare that the petitioner is entitled to get her appointment approved as HSST (Junior) in Chemistry under By-transfer quota at the MSM HSS, Chathinamkulam, Kollam. W.P.(C) No.9502/2024 has been filed by the 5th respondent in W.P.(C) No.2704/2024 seeking to direct the 2nd respondent-Regional Deputy Director to



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approve the appointment of the petitioner as HSST (Junior) Hindi.

2. The parties and exhibits in these writ petitions are referred to in this judgment as they are described/marked in W.P.(C) No.2704/2024, for convenience.

3. The petitioner states that she was initially appointed as UPSCA on 06.06.2019 in MSM HSS, Chathinamkulam. She was later appointed as HSST Junior on 12.03.2022. After the appointment of the petitioner as HSST Junior, the Manager had forwarded proposal for approval of petitioner's appointment. The proposal was rejected by the Regional Deputy Director as per Ext.P3 order dated 22.10.2022.

4. The petitioner states that Note 1 below Rule 4(3) Chapter XXXII, KER provides that 25% of the total posts shall be filled up by "By-transfer" appointment from qualified HSTs. The MSM HSS has a strength of 24 HSST Seniors and



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11 HSST Juniors. As the strength of HSST Juniors is 11, three HSTs/UPSTs are entitled to appointment By-transfer as HSST Junior. However, the 3rd respondent-Regional Deputy Director reported that one By-transfer appointment in English will fulfill 25% as mandated in Rule 4(3). Therefore, the petitioner was shown as selected as HSST Junior under direct appointment category.

5. The petitioner therefore preferred Ext.P6 revision petition dated 07.02.2023. The 1st respondent rejected the claim as per Ext.P9 order dated 20.12.2023 on untenable and unsustainable grounds. The petitioner states that the 3rd respondent issued Ext.P10 order approving the service of the 6th respondent which order was followed by Ext.P11 order of the 2nd respondent and Ext.P12 order of the 3rd respondent. The petitioner states that Ext.P9 order in the revision filed by the petitioner rejecting approval of the petitioner on the ground that it will exceed 25%, is illegal.



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6. In her W.P.(C) No.9502/2024, the 5th respondent stated that she was appointed as Junior Hindi Language Teacher in MSM HSS on 15.07.2021. There are 11 sanctioned posts of HSST Junior. The post of Higher Secondary School Teacher (Junior) is to be filled up By-transfer from qualified HSAs in the subject concerned. In the absence of such qualified hands, By-transfer appointment from UPSAs/LPSAs can be made, failing which direct appointment can be resorted to.

7. Note 1 under Rule 4(3) lays down that 25% of the total posts shall be filled up By-transfer. 75% posts shall be filled up by direct appointment. Rule 4(3), Note 1 clearly provides that the ratio of 25% has to be applied to the total posts. Therefore, the ratio will have to be applied to the sanctioned strength and not to the arising vacancies. The total number of sanctioned posts in the School in the category of HSST Junior being 11, three posts shall be filled up By-transfer



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and eight posts shall be filled up by direct recruitment.

8. The 5th respondent states that when a vacancy of HSST Junior arose in the Higher Secondary section on 25.08.2022, the 5th respondent was the only qualified Teacher available in the lower category. Hence, the Manager appointed the 5th respondent as HSST Junior Hindi as per order dated 21.02.2023. The proposal for approval of appointment of the 5th respondent as HSST Junior Hindi Teacher was forwarded by the Manager to the Regional Deputy Director. However, the Regional Deputy Director has not granted approval so far.

9. In the revision petition filed by the petitioner, the 5th respondent was also heard by the 1st respondent and the 1st respondent issued order dated 20.12.2023 holding that since the total number of sanctioned strength of HSST Junior is 11, there would be only two vacancies available for By-transfer appointment. On these premises, approval of the appointment of the 5th respondent was rejected as per order dated



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20.12.2023. The petitioner would contend that the number of posts to be filled up by the method of By-transfer would be three and the appointment of the 5th respondent in the third vacancy is perfectly legal and valid. Ext.P9 Government Order dated 20.12.2023 is therefore liable to be set aside.

10. The Government Pleader filed a statement in W.P.(C) No.2704/2024. On behalf of the 3rd respondent-Regional Deputy Director, it is submitted that there are 11 HSST (Junior) sanctioned posts in the School. 25% of the total HSST (Junior) posts shall be filled up by the method of By-transfer appointment. During the year 2021-2022, there was only one Teacher who got By-transfer appointment. On 16.03.2022, Mr. Kiran R. was given By-transfer appointment. According to Government letter dated 27.07.2019, By-transfer appointees should not exceed 25%. The GO dated 04.11.2024 clarified that during the recruitment period, when calculating the ratio, in case of decimals, the decimals above half (0.5) should



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be calculated as the upper whole number and the decimals less than the half should be excluded.

11. The 3rd respondent further submitted that the petitioner responded to direct recruitment notification and participated in the selection process and finally she got appointment under direct recruitment. However, she now raises claim for By-transfer appointment which is not permissible.

12. I have heard the learned counsel for the petitioners in both the writ petitions and the learned Senior Government Pleader representing the departmental respondents.

13. The petitioner, while working as UPSC, was appointed as HSST (Junior) on 12.03.2022. Approval was granted to the appointment, treating the appointment as direct appointment category. The 5th respondent was working as Junior Hindi Language Teacher. The Manager appointed the 5th respondent as HSST (Junior). The Regional Deputy Director



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has not granted approval to the appointment of the 5th respondent as HSST (Junior). The 5th respondent would contend that the number of posts to be filled up by the method of By-transfer would be three and the appointment of the 5th respondent in the third post is legal and valid.

14. In Ext.P9 Government Order dated 20.12.2023, the Government held that there are 11 HSST Junior posts in the School and the 25% posts should be filled up following the method of By-transfer appointment. The Government found that two By-transfer appointments were made on 15.11.2021 and 10.03.2022. A third By-transfer appointment therefore would exceed 25% quota. Therefore, the appointment of the petitioner and the 5th respondent cannot be approved. The Government declined the request of the petitioner to treat her direct appointment as HSST (Junior) as a By-transfer appointment.



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15. The question arising for consideration is as to the method by which the vacancies of HSST (Junior) has to be filled up, following Rule 4(3) Chapter XXXII KER. Rule 4(3) prescribing method of appointment of Higher Secondary School Teacher (Junior) reads as follows:

3. Higher Secondary School Teacher (Junior) 1. (i) By transfer from qualified High School Assistants in the subject concerned under the Educational Agency.

(ii) In the absence of qualified hands under item (i) above, by transfer from qualified Upper Primary School Assistants / Lower Primary School Assistants in the subject concerned under the Educational Agency.

2. By direct appointment.

Note:- (i) 25% of the total posts shall be filled up by the method specified in item (I) above on seniority-cum-suitability basis and 75% of such post shall be filled up by direct appointment.

(ii) When qualified persons are not available to fill up the vacancies set apart for appointment by transfer under item 1 above, such vacancies also shall be allotted for direct appointment.



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16. Rule 4(3) of Chapter XXXII, KER would show that the posts of HSST (Junior) have to be filled up firstly By-transfer from qualified HSAs in the subjects concerned under the educational agency. In the absence of qualified hands in the HSA cadre, vacancies can be filled up by the method of By-transfer from qualified UPSAs/LPSAs in the subject concerned under the educational agency. The posts of HSST (Junior) can also be filled by direct appointments.

17. Note 1 below Rule 4(3) mandates that 25% of the total posts shall be filled up by the method of By-transfer appointment on seniority-cum-suitability basis and 75% of such posts shall be filled up by direct appointment. Note 2 provides that when qualified persons are not available to fill up the vacancies set apart for By-transfer appointments, such vacancies shall also be allotted to direct appointment.

18. Rule 4(3) would indicate the primacy given to the High School Assistants in the matter of recruitment to the



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post of HSST (Junior), subject to the 25% quota limit. It is only when qualified persons are not available to fill up the vacancies set apart for By-transfer appointment, that such vacancies can be allotted for direct appointment.

19. The question then would arise as to whether this 25% quota prescribed for By-transfer appointments should be applied to the sanctioned strength or to the vacancies arising in an academic year. Since the Note 1 below Rule 4(3) prescribes that “25% of the total posts” shall be filled up through By-transfer appointment, it is evident that the 25% quota should be applied to the sanctioned strength. Any Government Orders or Circulars taking a contrary view would be invalid in view of the clear terms of Rule 4(3) Chapter XXXII, KER.

20. Applying the afore method for filling up the vacancies of HSST (Junior) in the School concerned, a question will arise as to how many posts of HSST (Junior) in the School can be filled up adopting By-transfer appointment. Admittedly,



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there are 11 posts of HSST (Junior) in the School. 25% of the 11 HSST (Junior) posts would come to 2.75 posts. As the decimal 0.75 exceeds the half mark of 0.5, the decimal should be calculated as upper whole number and hence three posts of HSST (Junior) would be available for recruitment through By-transfer method.

21. In Ext.P9 Government Order, the Government has taken a position that two posts of HSST (Junior) in the School are already occupied by By-transfer appointees and hence one more By-transfer appointment would exceed the 25% quota. The said stand taken by the Government is not correct as three posts of HSST (Junior) should be available for By-transfer appointment. It is also not clear from Ext.P9 that as to whether the two appointments of By-transfer appointees are made taking into consideration sanctioned strength or whether the quota was applied to the number of vacancies arisen during the academic year 2021-2022. In the afore facts of the case,



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I am of the view that the question of grant of approval to the appointments of the petitioner and the 5th respondent as HSST (Junior) under By-transfer quota should be reconsidered by the Government.

22. The writ petitions are therefore disposed of with the following orders and directions:

(i) Ext.P9 Government Order dated 20.12.2023 in W.P.(C) No.2704/2024 and in W.P.(C) No.9502/2024 are set aside.

(ii) The 1st respondent is directed to reconsider the issue of grant of approval to the appointments of the petitioner and the 5th respondent as HSST (Junior) treating the number of posts to be filled up through By-transfer method as three and applying the 25% quota to the sanctioned strength of HSST (Junior).



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(iii) The petitioner, the 5th respondent and other affected parties if any shall be given opportunity of hearing while taking a decision.

(iv) Orders afresh shall be passed within a period of four months.

Sd/-
N. NAGARESH, JUDGE

aks/27.12.2025



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APPENDIX OF WP(C) NO. 2704 OF 2024

PETITIONER'S EXHIBITS:

Exhibit-P1	A TRUE COPY OF THE ORDER GO(RT) NO.1180/2022/GEDN DATED 28.2.2022 BY THE FIRST RESPONDENT.
Exhibit-P2	A TRUE COPY OF THE SELECTION COMMITTEE REPORT DATED 12.3.2022.
Exhibit-P3	A TRUE COPY OF THE ORDER NO.TRO-04/2647/2022/HSE DATED 22.10.2022 BY THE THIRD RESPONDENT.
Exhibit-P4	A TRUE COPY OF THE COMMUNICATION NO.GEDN-SC1/86/ 2019-GEDN DATED 27.7.2019 BY THE FIRST RESPONDENT.
Exhibit-P5	A TRUE COPY OF THE ORDER GO(P) NO.629/G EDN. DATED 12.2.2015.
Exhibit-P6	A TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 7.2.2023.
Exhibit-P7	A TRUE COPY OF THE JUDGMENT DATED 21.2.23IN WP(C) 5746/23 DATED 21.02.23.
Exhibit-P8	A TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 7.7.23.
Exhibit-P9	A TRUE COPY OF THE FINAL ORDER GO(RT) NO.8117/2023/GEDN DATED 20.12.23.
Exhibit P10	TRUE COPY ORDER NO B1/18/2024/GEDN DATED 14.11.024 ISSUED BY 1ST RESPONDENT.
Exhibit P10(a)	ENGLISH TRANSLATION OF EXT P10
Exhibit P11	TRUE COPY ORDER ISSUED BY 2ND RESPONDENT NO. ACD B3/3885/2024/HSE DATED 16.11.2024.
Exhibit P11(a)	ENGLISH TRANSLATION OF EXT P11
Exhibit P12	TRUE COPY ORDER ISSUED BY 3RD RESPONDENT IN COMPLIANCE TO EXT P10 AND EXT P11 ORDERS, NO. TRO-04/1280/2023/HSE DATED 15.05.2025



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Exhibit P12(a) ENGLISH TRANSLATION OF EXT P12.

RESPONDENTS' EXHIBITS:

True copy of the
G.O(MS)No.23/2024/
GEDN dated
04/11/2024.

- | | |
|---------------|---|
| EXHIBIT R5(a) | True copy of the M.A. (Hindi) Certificate of the 5th respondent |
| EXHIBIT R5(e) | True copy of the relevant pages of the Service Book of the 5th respondent |
| EXHIBIT R5(b) | True copy of the B.Ed. (Hindi) Certificate of the 5th respondent |
| EXHIBIT R5(c) | True copies of the SET Certificate of the 5th respondent |
| EXHIBIT R5(f) | True copy of the order No. 87/23 dated 21.02.2023 |
| EXHIBIT R5(d) | True copy of the order dated 07.08.2021 approving the appointment of the 5th respondent as Junior Hindi Language Teacher along with English translation |
| EXHIBIT R5(g) | True copy of the order No.T.R.O-04(1)/2074/2023/R.D.D./HS.E. dated 09.05.2023 along with English translation |
| EXHIBIT R5(h) | True copy of the order G.O. (Rt.) No. 8117/2023/GEDNB dated 20.12.2023 along with English translation |
| EXHIBIT R5(i) | True copy of the order T.R.O-04/1280/2023/HEDN. dated 15.05.2025 along with English translation. |



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APPENDIX OF WP(C) NO. 9502 OF 2024

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE M.A. HINDI DEGREE CERTIFICATE AWARDED BY THE MADURAI KAMARAJ UNIVERSITY DATED 02.03.2017.
EXHIBIT P2	TRUE COPY OF THE B.ED. DEGREE CERTIFICATE ALONG WITH ENGLISH TRANSLATION
EXHIBIT P3	TRUE COPY OF THE SET CERTIFICATE
EXHIBIT P4	TRUE COPY OF THE ORDER NO. B4/26081/2021 DATED 07.08.2021 OF THE DISTRICT EDUCATIONAL OFFICER, KOLLAM APPROVING THE APPOINTMENT OF THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE ORDER DATED 14.07.2022 DECLARING THE PROBATION OF THE PETITIONER.
EXHIBIT P6	TRUE COPY OF THE JUDGMENT DATED 04.01.2005 OF THE HON'BLE SUPREME COURT REPORTED IN (2005) 2 SCC 10.
EXHIBIT P7	TRUE COPY OF THE APPOINTMENT ORDER NO. 87/23 DATED 21.02.2023 OF THE PETITIONER.
EXHIBIT P8	TRUE COPY OF THE ORDER NO. T.R.O-4(1)/2074/2023/R.D.D./H.S.E. DATED 09.05.2023 OF THE 2ND RESPONDENT.
EXHIBIT P9	TRUE COPY OF THE ORDER G.O.(RT.) NO. 8117/2023/GEDN DATED 20.12.2023 OF THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:

Exhibit-R4(a)	A true copy of the order GO(Rt) No.180/2022/GEDN dated 28.2.22.
Exhibit-R4(b)	A true copy of the selection committee report dated 12.3.22.

PETITIONER'S EXHIBITS:

EXHIBIT P10	TRUE COPY OF THE GOVERNMENT ORDER G.O.
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	(P) NO. 23/2024/GEDN DATED 04.11.2024
EXHIBIT P11	TRUE COPY OF THE LETTER NO. B1/18/2024/GEDN. DATED 14.11.2024 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P12	TRUE COPY OF THE LETTER NO. ADD B3/3885/H.S.E. DATED 16.11.2024 FORWARDED BY THE DEPUTY DIRECTOR OF EDUCATION TO THE 2ND RESPONDENT.