IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 590 OF 2024

AGAINST THE JUDGMENT&DECREE DATED 31.01.2022 IN OS NO.231 OF 2019 OF MUNSIFF COURT, HOSDRUG ARISING OUT OF THE JUDGMENT & DECREE DATED 20.12.2023 IN AS NO.19 OF 2022 OF SUB COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

RANJINI KP,AGED 50 YEARS
W/O. SUNIL P, RESIDING AT ARDRA, KOVVAL, PUNCHAVI
KADAPPURAM, OZHINHAVALAPPU, KANHANGAD VILLAGE & PO,
KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT/DEFENDANT:

SREE NARAYANA EDUCATIONAL SOCIETY,
AGED 54 YEARS,
REPRESENTED BY ITS SECRETARY,
KG PRABHAKARAN, S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY,
KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA
K.R.MONISHA
JIJO PAULC.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.591/2024, 593/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 591 OF 2024

AGAINST THE JUDGMENT & DECREE DATED 20.12.2023 IN AS NO.18 OF 2022 OF SUB COURT, HOSDRUG ARISING OUT OF THE JUDGMENT& DECREE DATED 31.01.2022 IN OS NO.230 OF 2019 OF MUNSIFF COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

SHYLA P,
AGED 52 YEARS
W/O. GOPALAKRISHNAN K, RESIDING AT KOVVAL STORE, KANHANGAD SOUTH, KANHANGAD VILLAGE & PO, KASARGOD DISTRICT,, PIN - 671531

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT/DEFENDANT:

SREE NARAYANA EDUCATIONAL SOCIETY,
REPRESENTED BY ITS SECRETARY, KG PRABHAKARAN, S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY, KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA

K.R.MONISHA
JIJO PAUL
C.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.590/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 593 OF 2024

AGAINST THE JUDGMENT&DECREE DATED 20.12.2023 IN AS NO.17 OF 2022 OF SUB COURT, HOSDRUG ARISING OUT OF THE JUDGMENT&DECREE DATED 31.01.2022 IN OS NO.229 OF 2019 OF MUNSIFF COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

SAVITHRI PV,
AGED 62 YEARS
D/O. PV RAGHAVAN, RESIDING AT PATHAYAPPURA, KALLANCHIRA, KANHANGAD VILLAGE & PO, KASARGOD DISTRICT,, PIN - 671531

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT/DEFENDANT:

SREE NARAYANA EDUCATIONAL SOCIETY,
REPRESENTED BY ITS SECRETARY, KG PRABHAKARAN, S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY, KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA
K.R.MONISHA
JIJO PAUL
C.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.590/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:27340

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 592 OF 2024

AGAINST THE JUDGMENT&DECREE DATED 20.12.2023 IN AS NO.16 OF 2022 OF SUB COURT, HOSDRUG ARISING OUT OF THE JUDGMENT&DECREE DATED 31.01.2022 IN OS NO.228 OF 2019 OF MUNSIFF COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

GOMATHI S,
AGED 60 YEARS
D/O. SADASHIVAN, RESIDING AT KARTHANDAN VEEDU, KALLANCHIRA, KANHANGAD VILLAGE &PO, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT:

SREE NARAYANA EDUCATIONAL SOCIETY,
REPRESENTED BY ITS SECRETARY, KG PRABHAKARAN,S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY, KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA
K.R.MONISHA
JIJO PAUL
C.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.590/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 595 OF 2024

AGAINST THE JUDGMENT&DECREE DATED 20.12.2023 IN AS NO.14 OF 2022 OF SUB COURT, HOSDRUG ARISING OUT OF THE JUDGMENT&DECREE DATED 31.01.2022 IN OS NO.226 OF 2019 OF MUNSIFF COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

LAKSHMI EV,
AGED 49 YEARS
W/O. CHANDRABOSE, RESIDING AT KAIPRAVAN VEEDU, KOVVAL, KANHANGAD VILLAGE & PO, KASARGOD DISTRICT,, PIN - 671531

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT/DEFENDANT:

SREE NARAYANA EDUCATIONAL SOCIETY,
REPRESENTED BY ITS SECRETARY, KG PRABHAKARAN, S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY, KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA
K.R.MONISHA
JIJO PAUL
C.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.590/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:27340

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

RSA NO. 594 OF 2024

AGAINST THE JUDGMENT&DECREE DATED 20.12.2023 IN AS NO.15 OF 2022 OF SUB COURT, HOSDRUG ARISING OUT OF THE JUDGMENT&DECREE DATED 31.01.2022 IN OS NO.227 OF 2019 OF MUNSIFF COURT, HOSDRUG

APPELLANT/APPELLANT/PLAINTIFF:

LAKSHMI C,
AGED 63 YEARS
D/O. T LAKSHMANA RAO, RESIDING AT LAKSHMI NILAYAM, NEAR MUTHAPPAN KAVU, KANHANGAD VILLAGE & PO, KASARGOD DISTRICT,, PIN - 671531

BY ADVS.
SURESH KUMAR KODOTH
SUKARNAN

RESPONDENT/RESPONDENT/DEFENDANT:

SREE NARAYANA EDUCATIONAL SOCIETY,
AGED 54 YEARS
REPRESENTED BY ITS SECRETARY, KG PRABHAKARAN, S/O. GOPALAKRISHNAN, MANNYOT, KOVVAPALLY, KANHANGAD VILLAGE AND POST, KASARGOD DISTRICT,, PIN - 671315

BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
ACHU SUBHA ABRAHAM
V.T.LITHA
K.R.MONISHA

JIJO PAUL
C.J.JINCY

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 25.03.2025, ALONG WITH RSA.590/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[RSA Nos.590/2024, 591/2024, 593/2024, 592/2024, 595/2024, 594/2024]

1) These Appeals arise from the judgments and decrees of six identical suits against the same defendant, which are tried separately by the Trial Court. The Appeals arising from the said suits were disposed of by a common judgment by the First Appellate Court. Since the claims made by the plaintiff in these suits are the same against the defendants, these Appeals are also disposed of by a common judgment.

2) The plaintiff in the suit is the appellant in these Appeals. All the plaintiffs except the plaintiff in O.S.No.229/2019 were teachers of Sree Narayana Nursery School/Lower Primary School, Koovappally, run by the defendant. The plaintiff in O.S.No.229/2019 was a peon in the same school. The first defendant is an educational Society established under the Societies Registration Act of 1860. It founded the aforesaid school in the year 1991. The school was stopped for want of

recognition on 31.03.2018. On account of the same, the plaintiff in all the suits lost their employment. Hence, the plaintiff in all the suits claimed Rs.10 lakhs with future interest at the rate of 10% p.a. from the date of the suit till realisation as compensation, including future salary, terminal benefits, and damages for mental agony.

3) The defendant admitted that the plaintiffs had been working with the school till the date of closure on 31.03.2018. But the defendant disputed the claim contending that the plaintiffs worked in the school for the salary offered by the defendant without any objection and they received salary up to the date of closure that the defendants was compelled to close the school for want of recognition. The plaintiffs were willing to work in the school at the offered salary and their decision was voluntary and not on the basis of any coercion. The defendant has not been paying any benefit like Provident Fund, gratuity, family benefit, bonus, incentives, or festival allowance to the plaintiffs or other

teaching staff. The plaintiffs have no right to claim any damages due to loss of employment. They are not entitled to any compensation as no mental agony was suffered by them because of the defendant's act or omission.

4) The Trial Court dismissed all the suits without costs finding that the suits are not maintainable and that the plaintiffs are not entitled for any compensation or money as claimed in the plaint.

5) Though the plaintiffs filed Appeals before the First Appellate Court the same was dismissed confirming the judgments and decrees passed by the Trial Court.

6) The present Appeals are filed by the plaintiffs challenging the judgments and decrees passed by the Trial Court which are confirmed by the First Appellate Court and praying for decreeing the suit as prayed for.

7) I heard the learned counsel for the appellants Sri. Suresh Kumar Kodoth and the learned counsel for the respondent/defendant Smt. K.R. Monisha.

8) The learned counsel for the appellant contended that the plaintiffs are entitled to maintain the suit in view of the decision of this Court in **Toji Joseph v. State of Kerala** [2009 (3) KLT SN 2] in which it is held that teachers in unaided school can seek compensation for wrongful termination in a competent civil court. The five out of the six plaintiffs were teachers, and the other plaintiff was a peon in the school. All of them had worked more than 20 years in the school for a paltry sum offered as salary. As on the date of closure, the salary was only Rs.3,580/- and Rs.3,305/-. The defendant had been exploiting the plaintiffs for its undue enrichment. The plaintiffs continued to work in the school on the promise of the defendant that they would be confirmed in the school as permanent staff when the school gets recognition. The school did not get recognition on account of the willful negligence and omission on the part of the defendant. The Trial Court, as well as the First Appellate Court, failed to appreciate the pleadings and evidence in the suits from the right

perspective, applying the correct law. The learned counsel cited the decision of the Hon'ble Supreme Court in **State of Punjab and Ors. v. Jagjit Singh & Ors.** [(2017) 1 SCC 148] which highly deprecated the exploitative employment practices and the decision of this Court in **Joseph Didakose K.G. v. Cochin Port Trust and Anr.** [2017 3 KLJ 509] following the said decision of the Hon'ble Supreme Court. In the said decisions, it is held that any act of paying less wages, as compared to others similarly situate, constitute an act of exploitative enslavement emerging out of a domineering position and that undoubtedly the said action is oppressive, suppressive and coercive as it compels involuntary subjugation.

9) On the other hand, the learned counsel for the respondent contended that the judgments and decrees passed by the Trial Court and the First Appellate Court are perfectly valid and legally well founded. It answered all the contentions raised by the appellants. The appellants could not prove any legal right

to claim compensation from the respondent. The defendant has paid all the dues to the plaintiff till the date of closure of the school. No substantial question of law is involved in the matter.

10) I have considered the rival contentions.

11) Admittedly, the defendant established the school in question in the year 1991 and the defendant was compelled to close the school on 31.03.2018 for want of recognition. Admittedly, the plaintiffs had been working as staff of the school for a considerably long length of time up to the date of closure on 31.03.2018. It is in evidence that they were paid only a meager sum as monthly salary. Some of them were paid Rs.3,518/- and others were paid Rs.3,305/-. The suit is filed relying on the decision of this Court in **Toji Joseph (supra)**. In the said decision this Court held that teachers in an unaided school can seek compensation for wrongful termination in a competent civil court. Here, the plaintiffs are not terminated from service. They lost their employment on account of the closure of the school.

They continued to work in the school for a long period without raising any objection, fully knowing that the school did not have any kind of recognition. In view of these facts, I am of the view that the aforesaid decision in **Toji Joseph (supra)** is not applicable to the facts and circumstances of the case. The Trial Court correctly appreciated and understood the said decision. The plaintiffs joined the service of the defendant in its school at the salary offered by the defendant. They have no case that the salary offered by the defendant is not paid. True, they were paid only a paltry sum as salary and the defendant availed their service by way of exploitation. But the fact remains that the plaintiffs could have quit from service and opted for better employment. That was not done by the plaintiffs. The plaintiffs do not have a case that the defendant compelled or coerced them to continue their service in the school. The plaintiffs do not have a case that the defendant in any way prevented the plaintiff from joining better employment. In view of these facts, the

aforesaid decisions cited by the learned counsel for the appellant are not applicable to the present case.

12) Even though, it is contended that the defendant promised to confirm them in permanent posts after getting recognition, no such promise is proved. As a matter of fact, the school did not get recognition to claim permanent employment. The fact is that the plaintiffs continued their service expecting permanent employment after getting recognition for the school. In spite of working of the school for a long period, the school could not secure necessary recognition. The plaintiffs alleged that it is on account of the clear willful negligence and omission on the part of the defendant the school could not obtain necessary recognition. The evidence in this regard is quite lacking in this case. It is in evidence that the defendant submitted the application before the authorities. It may be true that the school could not obtain recognition on account of the inaction of the defendant to take timely action for the same. Even the reason

for not getting recognition is not disclosed either in the pleadings or in the evidence. The specific case of the defendant is that the school could not get recognition as it could not comply with the norms prescribed by the government. The plaintiffs could not prove that it is on account of the willful negligence on the part of the defendant the school could not comply with the norms prescribed by the government. In the absence of these evidences, the plaintiffs cannot claim compensation from the defendant. The plaintiffs continued their employment in the school without raising any objection fully knowing that the school was not having any recognition. It is seen that the fees from the students was the only source of income to the school. There was no agreement between the plaintiffs and the defendant with respect to the salary and other benefits. The appellant could not point out any statutory provision on the basis of it they are entitled to claim against the defendant. Any violation of obligation on the part of the defendant is pleaded or

proved. The pleading and evidence would reveal that the school, which was illegally conducted by the defendant, was closed on 31.03.2018. The plaintiffs are not entitled to get salary for the period subsequent to the closure of the school.

13) The plaint claim includes loss of salary for fifteen months from 31.03.2018. Another claim is loss of employment for a period of ten years. Under this head, each plaintiff is claiming Rs.7 lakhs. Admittedly, the plaintiffs did not work in the school after 31.03.2018. In fact, the school was not available for providing work to the plaintiffs. Hence, the plaintiff is not entitled to get any amount under these heads. The next claim is that of Provident Fund and gratuity. Since the school had only 9 employees, the Employees Provident Fund and Miscellaneous Provision Act, 1952, and Payment of Gratuity Act,1972 are not applicable to the school. Of course, an establishment can opt for registration. Admittedly, the school had not opted for registration, and no amount is collected from the plaintiffs towards the Provident

Fund. The basis for claiming festival allowance is not disclosed. The next claim is Rs.1 lakh compensation for mental agony including medical expenses. As rightly held by the Trial Court and the First Appellate Court that it is a special damage and does not come within the scope of general damages. Special damages have to be specifically pleaded and proved. There is no pleading or proof with respect to the same.

14) In view of the aforesaid discussion, there is no error or illegality in the judgments and decrees passed by the Trial Court and the First Appellate Court. No substantial question of law is involved in this matter. Accordingly, these Regular Second Appeals are dismissed.

Sd/-

M.A.ABDUL HAKHIM

JUDGE

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