

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P.(C)No. 61 of 2018

1. Shri Henkhogin, aged about 30 years, s/o Late Langkhai, resident of Tuilaphai Village, Henglep Sub- Division, Churachandpur, Manipur.
2. Shri. H. Ginsuanmang, aged about 32 years, s/o late Tunjakap Hangshing, resident of Tuilaphai Village, Henglep Sub- Division, Churachandpur, Manipur.
3. Shri Thenlal Haokip, aged about 32 years, s/o late Seithong haokip, resident of Tuilaphai Village, Henglep Sub- Division, Churachandpur, Manipur.
4. Shri Hemkholun Haokip, aged about 42 years, s/o late Ngulkhothang Haokip, resident of Tuilaphai Village Henglep Sub- Division, Churachandpur, Manipur.
5. Shri Lunkhomang, aged about 38 years, s/o late Ngulkhothang, resident of Tuilaphai Village Henglep Sub- Division, Churachandpur, Manipur.
6. Ms. Veineichong, aged about 40 years, w/o Thangkam, resident of Tuilaphai Village, Henglep Sub- Division, Churachandpur, Manipur.
7. Ms. Tinkholhai, w/o Khailet, resident of Tuilaphai Village Henglep Sub- Division, Churachandpur, Manipur.
8. Smt. Kimy, aged about 32 years, wife of late Tunjakap Hangshing, resident of Tuilaphai Village, Henglep Sub- Division, Churachandpur, Manipur.

... Petitioners

-Versus -

1. The Chairman, District Board of Education, SSA-RTE, Churachandpur, Manipur, (Deputy Commissioner, Churachandpur, Manipur).
2. The Principal Secretary (Education – S), Government of Manipur, Imphal.
3. The State of Manipur represented by the Principal Secretary, Education-S, Government of Manipur, Imphal.

... Respondents

BEFORE

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioners : Mr. Ng. Kumar, Adv.
For the respondents : Mr. A. Vashum, G.A.
Date of Hearing : **11.04.2023**
Date of Judgment & Order : **25.04.2023**

Judgment & Order

Heard Mr. Ng. Kumar, learned counsel appearing for the petitioners and Mr. A. Vashum, learned Government Advocate appearing for the respondents.

[2] The present writ petition had been filed with the prayer for quashing the impugned order dated 04.01.2018 terminating the services of the petitioners as well as the impugned notification dated 04.01.2018 notifying the posts held by the petitioners for appointment on contract basis.

[3] The brief facts of the present case is that the Office of the District Project Officer, Sarva Shiksha Abhiyan, Churachandpur, issued a notification dated 05.02.2011 inviting application from eligible candidates from Churachadpur District for appointment against the categories of posts, including one post of Warden, four posts of full time teacher and three posts of part time teacher in Kastruba Gandhi Balika Vidhyalaya (K.G.B.V.) Tuilaphai, Henglep Block, Churachandpur. The qualifications prescribed for the aforesaid eight posts of Warden, full time teacher and part time teacher as prescribed in the said notification is B.A./B.Sc. All the seven petitioners

having possessed the qualifications of B.A./B.Sc. submitted their applications against the aforesaid eight posts and all the petitioners having been declared to be successful in the selection process were appointed against the aforesaid eight posts. Petitioners No. 1 to 7 were appointed as teachers and petitioner No. 8 was appointed as Warden on contract basis in the Department of Education (S) under Sarva Shiksha Abhiyan with effect from 25.03.2011 by an order dated 25.03.2011 issued by the Office of the District Project Officer Sarva Shiksha Abhiyan, Churachandpur, Manipur.

[4] After serving for about seven years in their respective capacities as Warden/Teachers, the services of the petitioners were terminated with effect from 01.02.2018 by the Chairman, District Board of Education, Sarva Shiksha Abhiyan – RTE, Churachandpur by issuing an order dated 04.01.2018 on the ground of want of requisite educational qualification as mandated by National Council of Teacher Education (NCTE). According to the petitioners, the termination order came like a bolt from the blue and the same had been issued without giving to the petitioners any prior show-cause notice or without giving any opportunity of being heard and in complete violation of the Principle of Natural Justice. Having been aggrieved, the petitioners assailed the said termination order dated 04.01.2018 by filing the present writ petition.

[5] Mr. Ng. Kumar, learned counsel appearing for the petitioners submitted that the Director of Education (S), Government of Manipur issued a notification dated 11.08.2017 notifying, inter alia, that the WP(C) No. 61 of 2018

Parliament passed an amendment to Section 23 (2) of the Right to Education (RTE) Act to extend the period of training of untrained in-service elementary teachers up to 31.03.2019 and that any elementary school teacher who does not have requisite minimum professional qualifications mandated under the RTE Act, 2009 would not be allowed to continue in service beyond 1st April 2019 and procedure for dismissal shall be initiated against such teacher. According to the learned counsel, as the period of training of untrained in-service elementary teachers had been extended up to 31.03.2019, the termination of the petitioners' services with effect from 01.02.2018 under the impugned termination order dated 04.01.2018 and before expiry of the extended period of 31.03.2019 as notified under the aforesaid notification dated 11.08.2017, on the ground of want of requisite educational qualifications is highly arbitrary, illegal and uncalled for and accordingly, the impugned termination order as well as impugned notification both dated 04.01.2018 are liable to be quashed and set aside.

[6] The learned counsel for the petitioners vehemently submitted that the impugned termination order had been issued without giving any prior show-cause notice to the petitioners and without giving any opportunity of being heard and in complete violation of the Principle of Natural Justice. It has also been submitted that during the pendency of the present writ petition and in terms of the notification dated 11.08.2017 issued by the Director of Education (S), all the petitioners, except petitioner No. 2 have obtained the requisite qualifications and accordingly, the ground on which the services of the petitioners have been terminated no

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longer exist and as such, the impugned termination order and impugned notification dated 04.01.2018 are liable to be quashed and set aside.

[7] Mr. A. Vashum, learned Government Advocate appearing for the respondents submitted that the initial appointment of the petitioners was on contractual basis and the same were in terms of the contract agreement wherein, it was clearly mentioned that the appointment is only for one year, however, unfortunately, all the relevant files and documents with regard to the initial contract agreement of the petitioners have been burnt down with the Office of the Zonal Education Officer, Churachandpur, by a mob on 02.09.2015 at about 3 pm and as such, the initial contract agreement of the petitioners are untraceable even after a huge search. It has also been submitted that the period of contract appointment of the petitioners were never renewed and the services of the petitioners were terminated on 04.01.2018 by paying their salaries up to 31.01.2018. The learned Government Advocate further submitted that the contractual services of the petitioners were terminated for want of requisite educational qualifications as mandated by NCTE and petitioners cannot claim for renewal or extension of the period of their contractual services as a matter of right. The learned Government Advocate accordingly submitted that the present writ petition is devoid of merit and deserved to be dismissed.

[8] I have heard the rival submissions of the learned counsel appearing for the parties at length and also carefully examined the materials available on record. On careful examination of the initial appointment order of the petitioners dated 25.03.2011, it is found that even

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though the petitioners were appointed on contractual basis, no time period or duration of their contract appointment was stipulated or mentioned in the said appointment order. It is also an admitted fact and found on record that the petitioners continued to render their services for about seven years from the date of their initial appointment. Taking into consideration the above facts and in the absence of any tangible material to show that the initial contract appointment of the petitioners were only for one year, this Court is not inclined to accept the bald submissions made by the learned Government Advocate that the period of contractual appointment of the petitioners were only for one year and that there is no renewal or extension of the period of their contractual services.

[9] In the notification dated 11.08.2017 issued by the Director of Education (S), it has been clearly notified that the period of training of untrained in-service elementary teacher had been extended up to 31.03.2019 and that any elementary school teacher who does not have requisite minimum professional qualifications mandated under the RTE Act, 2009 would not be allowed to continue in service beyond 1st April, 2019 and procedure for dismissal shall be initiated against such teachers thereafter, meaning thereby that untrained in-service elementary teacher can continue in service till 31.03.2019 and to obtain the required training/qualification during the extended period and that untrained elementary teachers cannot be terminated on the ground of want of requisite qualification during the extended period.

In the present case, without taking into consideration the said
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notification dated 11.08.2017 allowing the untrained in-service elementary teacher to continue up to 31.03.2019, the Chairman District Board Education, SSA – RTE, Churachandpur terminated the services of the petitioners only on the ground of want of requisite educational qualifications and that too without giving any opportunity of being heard to the petitioners and in complete violation of the Principle of Natural Justice.

[9] In my considered view, such act of terminating the services of the petitioners is highly arbitrary and illegal and the same is not sustainable in the eyes of law. In the result, the present writ petition is allowed by quashing and setting aside the impugned termination order and impugned notification both dated 04.01.2018 insofar as the petitioners are concerned.

The present writ petition is accordingly disposed of.

Parties are to bear their own costs.

JUDGE

FR/NFR

Lhaineichong