

GAHC040010632021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 366/2021

1:Ogom Perme and 4 Ors
W/o Shri Baliram Taye,
P.O/P.S Pasighat, District East Siang, Arunachal Pradesh.
Mobile No. 8974612203

2: Maloty Tayeng
W/o Shri Kabit Modi
Vilalge Seram under Mebo Circle
P.O/P.S Mebo
District East Siang
Arunachal Pradesh.

3: Tabit Tasung
S/o Late Rokom Tasung

Village Sibut
P.O Yagrung
P.S Pasighat. District East Siang
Arunachal Pradesh

4: Nijonto
S/o Loiko Modi
Vilalge Namsing
P.O/P.S Mebo
District East Siang
Arunachal Pradesh

5: Mumyam Lego
W/o Shri Dubom Perme

A resident of Romdum Town
P.O/P.S Mebo
District East Siang
Arunachal Pradesh

VERSUS

1:THE STATE OF AP and 3 Ors.
Represented by the Secretary (Education) Govt. of Arunachal Pradesh, Itanagar
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2:The Secretary/Commissioner Education
Govt.of Arunachal Pradesh
Itanagar

3:The Director (Elementary Education)
Govt.of Arunachal Pradesh
Itanagar

4:The Deputy Director of School Education
Pasighat
Govt. of Arunachal Pradesh

Advocate for the Petitioner : Tabit Tapak

Advocate for the Respondent : Tagum Jamoh

Linked Case : WP(C) 166/2022

1:Tabit Tasung and 2 Ors.
S/o Late Rokom Tasung

Village Sibut
PO Yagrung
PS Pasighat
District East Siang
Arunachal Pradesh.
Mobile No. 7005807304

2: Ogom Perme
W/o Shri Baliram Taye

PO/PS Pasighat
District East Siang
Arunachal Pradesh.
Mobile No. 8974612203

3: Maloty Tayeng
W/o Shri Kabit Modi

Village Seram under Mebo Circle
PO/PS Mebo
District East Siang
Arunachal Pradesh.
VERSUS

1: THE STATE OF AP and 2 Ors.
Represented by the Secretary/Commissioner (Education) Govt. of Arunachal Pradesh
Itanagar

2: The Director (Elementary Education)
Govt. of AP
Itanagar

3: The Deputy Director
of School Education
Pasighat
Govt. of Arunachal Pradesh.

Advocate for the Petitioner : Tabit Tapak
Advocate for the Respondent : Tagum Jamoh

**BEFORE
HONBLE MR. JUSTICE S.K.MEDHI**

ORDER

15.05.2023

Heard Shri T Tapak, learned counsel for the petitioners in both the petitions. Also heard Shri T Jamoh, learned Standing Counsel, Education Department, AP.

2. At the outset, the learned counsel for the parties have submitted in tandem that similar issue has already been decided by this Court and therefore, the present two

cases may be decided in the same lines. In fact, a copy of the order dated 29.08.2022 passed by this Court in WP(C)/315/2021 has been placed before this Court.

3. However, it may be required to have a brief of the facts involved.

4. The petitioners in these two cases were initially appointed as Contingency Peon in various establishment of the Education Department. They have projected that after serving for some length, their services were regularised as Multi Tasking Staff (MTS) in which capacity, they have worked for around 6 months, however, vide the impugned order dated 20.08.2021, their appointments to the post of MTS were cancelled. The petitioners alleged that there was no opportunity of hearing and there was violation of the principles of natural justice. In the second writ petition, being WP(C)/166/2022, a prayer has been made for release of the remuneration of the petitioners.

5. Similar issues were the subject matters of earlier writ petitions, including WP(C)/315/2021 mentioned above. This Court, after hearing the parties, had disposed of the matter by directing reinstatement of the petitioners in their respective posts with, however, a liberty to initiate an inquiry to examine the allegations, including the manner in which the petitioners were inducted into the services. For ready reference, the relevant paragraphs are extracted hereinbelow:

“6. After consideration of the submission made by the learned counsel for the parties and upon perusal of the materials on record, this Court is of the view that the authorities having decided to initially appoint the petitioners on contingent basis followed by a process of regularization as MTS cannot unilaterally discontinue such engagement. The petitioners, on account of the fact of working for a long period of time have accrued a right to continue till any valid reasons are assigned and by the fact that their services are found

necessary for all purpose. There cannot be a sudden requirement for discontinuing them. Over and above, it is an admitted fact that no opportunity and / or scope was afforded to the petitioners before such adverse action was taken. Such action having adverse consequences upon the life and livelihood of the petitioners, this Court is of the view that non affording of any opportunity would be violative of Articles 14 and 21 of the Constitution of India and also the principles of natural justice.

7. A submission has also been made on behalf of the petitioners that while directing for reinstatement, their pending salaries should be paid.

8. The entry of the petitioners into their services being on a contingent basis and not by following the rigours of a selection process, this Court is of the opinion that while discontinuation of the services of the petitioners is interfered with, such interference is only on the grounds of not affording any opportunity and violation of principles of natural justice. However, this Court refrains to make any direction towards payment of pending salaries inasmuch as, Shri Jamoh, learned Standing Counsel, Education Department has already conformed that salaries for the period when the petitioners had rendered duties have been paid.

9. Accordingly, the instant writ petition is allowed by directing that the petitioners be reinstated in their respective posts from which they were discontinued from services. Such reinstatement be done forthwith and in any case within a period of 3(three) weeks from the date of receipt of a certified copy of this order.

10. At this stage, Shri Jamoh, learned Standing Counsel, Education Department prays for a liberty to take fresh action.

11. This Court is of the opinion that such liberty is an inbuilt one as the entry of the petitioners in services was on the discretion of the respondents and not through the recognized mode of recruitment and if the authorities of the view that the services of the petitioners are no longer required, they can dispense with such services, however by strictly following the due process of law including an opportunity by issuing notice.”

6. Since the issue has been considered in details and elaborate direction passed, the present two writ petitions stand disposed of in terms of the aforesaid directions.

7. It is, however, needless to say that since the petitioners are continuing on the strength of the interim order and till such date, depending upon the decision to be taken by the authorities pursuant to the liberty granted to hold an inquiry, the remuneration are to be released to the petitioners, as no services can be utilised in gratis.

JUDGE

Comparing Assistant