

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.189 of 2017

Md.Abdul Kalam Azad

... Petitioner

-Versus-

State of Manipur & 3 Ors

... Respondents

BEFORE

HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA

25.06.2024

Heard Ms.G.Puspa, learned counsel for the petitioner and Ms.Ch.Sundari, learned Government Advocate for the State respondents.

The petitioner approached this Court for payment of his salary w.e.f. 1.1.2006. The prayer in the writ petition read as follows:

“ In view of the facts and circumstances stated above Your Lordships be pleased to issue a writ in the nature of Mandamus or any other appropriate writ or writs directing the respondents authorities to pay the monthly salary of the petitioner w.e.f. 1.1.2006 till date as the writ petitioner has been serving as a Regular Arts Graduate Teacher in the Kamuching Government Jr. High School, Education (S), Government of Manipur and for the fact that the writ petitioner have nor resigned from his service nor has been removed from the service by way of issuing any order(s).”

Ms.G.Puspa, learned counsel for the petitioner submits that the petitioner was initially appointed as Temporary Graduate Teacher at Lanva Model High School, Churachandpur, Manipur vide order dated 5.10.1988 issued by the then Director of Education (S), Government of Manipur and vide order dated 8.11.1989 his

temporary service was regularized. Vide another order dated 7.12.1989 passed by the Secretary (Education), Government of Manipur, the petitioner was transferred from Churachandpur to Kamuching Jr. High School, Sadar Hills, Kangpokpi, Manipur and as his salary was not released from time to time, the Department of Education vide various letters intimated to the Director Education as well as the Zonal Education officer, Kangpokpi to release his due salary. By another letter dated 5.10.2005, the Director Education (S), Government of Manipur intimated the Sub Treasury Officer, Kangpokpi, Government of Manipur for release of pay for eight employees including the petitioner as they eligible/entitled to receive pay and allowance.

In the counter affidavit of the State Government it is stated that 18 persons were occupying their respective posts on the basis of fake appointments and name of the petitioner was included at Sl.No.6. Vide letter dated 24.5.2007, the Director, Vigilance, Manipur recommended to the Secretary (Education), Government of Manipur for removal of those 18 persons including the petitioner herein. Accordingly, the Addl Director, Education (S), Government of Manipur issued intimation to the Zonal Education Officer, Kangpokpi not to release pay and allowance of the petitioner in terms of the Vigilance recommendation.

Ms.Ch.Sundari, learned Government Advocate submits that in the circumstance, the pay and allowance of the petitioner was not released by the State authorities. The learned Government Advocate also submits that vide Certificate dated 26.10.2015 issued by the Head Master, Kamuching Govt Jr.High School, Kamuching regarding attendance of the petitioner is not binding on the State authority and writ petition is liable to be dismissed.

Ms.G.Puspa, learned counsel for the petitioner has pointed out that in pursuant to the recommendation of the Director, Vigilance vide order dated 24.05.2007 for removal of 18 persons on

the basis of fake appointment, the State authority has failed to issue any termination order of the petitioner and petitioner discharged duty till date of superannuation in the month of February, 2019.

This Court has perused the materials on record and considered the submissions made at the Bar. It is admitted fact that the petitioner was appointed by the then Director, Education, however, the Director, Vigilance, recommended for removal of the service of 18 persons including the petitioner on the ground of fake appointment. It is also admitted fact that the State respondents have not issued any termination order of the petitioner as recommended by the Vigilance Department, rather issued directive for non-payment of pay and allowance to the petitioner vide order dated 2.6.2007.

In the circumstance, the respondents are directed to release pay and allowance of the petitioner up to 2.6.2007 as admissible as per Rule and pay and allowances after 2.6.2007 and pensionary benefit, if any, shall be subject to the outcome of the Vigilance Case being FIR No.13 (7)/99-VPS under Section 420/468/471/120-B, IPC.

With this observation, the writ petition is disposed of. Arrears of pay and allowance up to 2.6.2007 be released within a period of 6 (six) months from the date of receipt of a copy of this order.

Furnish copy of this order to learned counsel for the parties.

JUDGE

Priyojit

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