



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

Case No. : WP(C)/314/2018

SMTI OMOTI KARPUK
W/O BODO TAYENG, RESIDENT OF TARAK VILLAGE, PO/PS PANGIN,
SIANG DIS. AP. PHONE NO. 897439149

VERSUS

THE STATE OF A.P. AND 2 ORS.
REPRESENTED BY THE SECRETARY OF EDUCATION ARUNACHAL
PRADESH CUM STATE PROJECT DIRECTOR, SARVA SHIKSHA ABHIYAN,
RAJYA MISSION, ITANAGAR, GOVT. OF AP, ITANAGAR. 2:THE
SECRETARY OF EDU. ARUNACHAL PRADESH CUM STATE PROJECT
DIRECTOR

Age: 0
Occupation :

3:THE DEPUTY COMMISSIONER
Age: 0
Occupation

Advocate for the Petitioner : Mr A Apang, Sr. Advocate
Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

JUDGMENT & ORDER (Oral)

Date : 13.03.2024

Heard Mr. A. Apang, learned Senior Counsel assisted by Ms. N. Anju, learned counsel for the petitioner. Also heard Mr. T. Tagum, learned Standing Counsel representing the Education Department.

2. The petitioner, by instituting the present proceeding has presented a challenge to an order dated 13.06.2018, issued by the Deputy Commissioner, East Siang District, Pangin, by which the petitioner was dismissed from her services as a contractual Junior Teacher under the Sarva Shiksha Abhiyan (SSA) on the ground that the said order being punitive in nature, could not have been issued without following the due process of law.

3. The petitioner was initially engaged as Junior Teacher on contractual basis under the SSA on 07.09.2006. The service of the petitioner was being extended from time and time and the petitioner had completed around 11 years of services. In the year 2007, an allegation was raised that in the recruitment examination for the posts of UDC/LDC/MTS on 19.08.2017, the question paper of the said examination was leaked and was available in the social media. The petitioner was one of the invigilators in the said examination centre and during the course of investigation in connection with Panging P.S. Case No. 23/2017, under Sections 420/193, registered in connection with the said leakage of question paper, the

petitioner came to be placed under detention.

4. On being placed under detention, the petitioner services came to be placed under suspension vide an order dated 10.04.2018. In the said order of suspension dated 10.04.2018, it was alleged that the petitioner had taken one question paper from the examination hall and she has confessed to such act as committed by her in the criminal proceedings so pending against her. The petitioner was thereafter granted the privilege of bail by the Executive Magistrate, Siang District on 12.04.2018.

5. It is contended that the petitioner had also recorded her statement under 164 Cr.P.C. in connection with the said case. The petitioner thereafter was served with the impugned order dated 13.06.2018, by which her services came to be dismissed on the allegation of being involved in the process of leakage of the question paper of the said recruitment examination.

6. The order dated 13.06.2018, a challenge to which is presently made in the present proceedings being relevant is extracted herein below: -

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE DEPUTY COMMISSIONER,
SIANG DISTRICT: PANGIN

No. DCP/SP/Judl-01/2016-17/204
Dated: 13/06/2018

ORDER

This has the reference to earlier order No. DCP/SP/Judl-01/2016-17/204 Dated

10/06/2018.

As per the order no cited above, you were suspended from government service for indulging in paper leakage allegation case during the recruitment examination for the post of UDC, LDC and MTS held under the establishment of the Deputy Commissioner, Siang District, Pangin till completion of the enquiry. And after thorough enquiry of the case, the fact has been unearthed and you are found to be the prime accused in the case.

Whereas, such act of violation of conduct rules of government service by a contractual govt. employee is improper and unbecoming and invites disciplinary action as per CCS Rule.

Hence, taking strict note of her being the prime accused and violation of govt. rules, the contractual service of Smti Omoti Karpuk, JT (SSA) is hereby dismissed. This order supersedes earlier suspension order No. DCP/SP/Judl-01/2016-17/204 Dated 10/06/2018.

Given under the hand and seal on this day of 13/06/2018.

To,
Smti Omoti Karpuk,
Junior Teacher (SSA)
Govt. Secondary School, Boleng.

(Rahul Singh), IAS
Deputy Commissioner,
Siang District: Pangin

Dated Pangin the 13th June' 2018

7. A perusal of the contents of the said order dated 13.06.2018, would reveal that the same was so issued towards dismissing the services of the petitioner after the authority issuing the same had come to the definite conclusion that the petitioner was involved in the matter of leakage of question paper of the said recruitment examination and after denoting her to be the prime accused in the case. Accordingly, the impugned order is stigmatic inasmuch as the satisfaction of the authority to terminate the

services of the petitioner was that the petitioner was indeed guilty of the said allegation and it is clearly affirmed on the face of the said order dated 13.06.2018. Such conclusion drawn without affording an opportunity of hearing to the petitioner even in the case of a contractual appointee would be arbitrary and unjust. Therefore, the impugned order of termination dated 13.06.2018, in view of the settled position of law existing in the matter, is found to be unsustainable and warrants interference from this Court.

8. The impugned order of termination of the petitioner dated 13.06.2018, having been held to be stigmatic and the same having visited the petitioner with civil consequence, the same could not have been issued without following the due process of law and after affording due opportunity to the petitioner to prove her innocence in the matter.

9. In view of the above position, the order dated 13.06.2018 is hereby set aside and quashed. As a consequence of interference made with the order dated 13.06.2018, the petitioner is deemed to be in service on contractual basis as a Junior Teacher (SSA).

10. The petitioner, accordingly, shall be allowed to resume her duties forthwith. However, with effect from the date of termination of the services of the petitioner as effected vide the order dated 13.06.2018, till the date the petitioner is allowed to resume her services in terms of the directions passed herein above, the petitioner will not be entitled to any wages/salaries by applying the principle of "No work No pay". However,

the said period shall be counted towards reckoning any future benefit that would be available to the petitioner and also for the determination of her seniority, if the occasion so requires.

11. The respondent authorities are at liberty to proceed against the petitioner after permitting her to resume her services, by issuing to the petitioner due notices with regard to the allegation as leveled against her and contained in the order dated 13.06.2018 and take further steps in the matter after affording due opportunity of hearing to the petitioner.

12. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant