

GAHC040010792021

2024:GAU-AP:1092



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

Case No. : WP(C)/371/2021

Tummin Sora

A permanent resident of Nari, P.O and P.S Nari, Lower Siang District, Arunachal Pradesh. Phone No. 9101027517

VERSUS

THE STATE OF AP and 5 Ors.

Represented by the Secretary (Education),, Govt. of Arunachal Pradesh cum State Project Director ISSE, Samagra Shiksha Society, Arunachal Pradesh, Itanagar

2:The DDSE cum DPO Age: 0 Occupation :

ISSE Samagra Shiksha Society

Lower Siang District Arunachal Pradesh

3:Midak Basar Age: 0 Occupation :

C/o DDSE Lower Siang District

Likabali Arunachal Pradesh

4:Gichik Jimi Age: 0 Occupation :

C/o DDSE Lower Siang District

Likabali Arunachal Pradesh

5:Yajum Gongo Age: 0 Occupation :

C/o DDSE Lower Siang District

Likhabali Arunachal Pradesh

6:Pumar Lombi Age: 0 Occupation :

C/o DDSE Lower Siang District

Likhabali Arunachal Pradesh

Advocate for the Petitioner : Pritam Taffo, Elina Perme,M Karbak,V Dolo

Advocate for the Respondent : Tagum Jamoh, Taba Tagum,SC (Education)

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

JUDGMENT

Date : 11.10.2024

Heard Ms. Elina Perme, learned counsel appearing on behalf of the petitioner. Also heard Mr. Taba Tagum, learned standing counsel, Education Department, appearing on behalf of all the State Respondents.

The present proceeding has been instituted by the petitioner, herein, presenting a challenge to an order, dated 19.07.2021, issued by the Deputy Director of School Education-cum-District Project Officer(ISSE), Lower Siang District, Likabali, by which the service of the petitioner, herein, as an unskilled Contingency Peon was discontinued on the ground of non-availability of fund and non-allocation of separate fund against the post from the State Office.

The petitioner, herein, vide order, dated 18.04.2005, was initially engaged as an Unskilled Contingency worker for a period of 6(six) months at a fixed pay of Rs. 1,000/- and was attached to BRC, Nari. The petitioner, herein, continued to discharge his duties as per the directions issued by the authorities.

It is seen that in the year 2020; a process of recruitment on adhoc basis for a period of 6(six) months, was undertaken by the Deputy Commissioner, Lower Siang District, Likabali, against 4(four) posts of Peon and 1(one) post of Driver. It is also seen that persons came to be selected in the said recruitment process and they were appointed in service for a period of 6(six) months. However, the said persons were continued in their respective engagement, thereafter.

Poised thus; the petitioner, herein, vide order, dated 19.07.2021, came to be discontinued from his service as an unskilled Contingency Peon due to non-

availability of fund and non-allocation of separate fund against the post from the State Office.

Being aggrieved; the present proceeding has been initiated by the petitioner, herein.

Ms. Perme, learned counsel for the petitioner, at the outset; has submitted that one of the persons recruited in the year 2020, as Unskilled Contingency worker after completion of her initial period of engagement, has been allowed to continue in her service whereas, the petitioner, herein, was picked up for differential treatment and the order, 19.07.2021, came to be issued in his case, discontinuing his services.

Situated thus, this Court had required Mr. Tagum, learned standing counsel, Education Department, to receive instructions as to whether there were persons, who were engaged after the engagement of the petitioner, herein, in the year 2005, as unskilled Contingency worker(s), and permitted to continue in their services while the petitioner was discontinued from his service.

Mr. Tagum, learned standing counsel, Education Department, on instructions, has submitted that there is 1(one) person who has been engaged some time in the year 2021 as unskilled Contingency worker, who was allowed to continue in his such engagement.

In view of the above position; the stand of the State Respondents that the service of the petitioner was required to be discontinued on account of there being non-availability of fund and non-allocation of separate fund against the post from the State Office, cannot be countenanced and accordingly, the order, dated 19.07.2021, would call for an interference.

The petitioner, herein, who has been serving in the organization since 18.04.2005, as an unskilled Contingency Peon could not have been dealt with in the manner, he has now been dealt with by the respondent authorities vide the order, dated 19.07.2021, and in the event, there was a constraint of funds; the principle of 'first come, last go' ought to have been followed. When persons engaged as unskilled Contingency workers, much after the engagement of the petitioner, herein, has been permitted to continue in service; the petitioner could not have been picked up for differential treatment.

In view of the above position, without interfering with the engagements so made in respect of the others, who have not been arrayed as respondents in the present proceeding; the order, dated 19.07.2021, is interfered with and the respondent authorities are directed to reinstate the petitioner, herein, in his contingency engagement, as before. However, the petitioner shall not be entitled to any wages with effect from 19.07.2021, till the date of disposal of the present writ petition.

Consequential orders as may be called for in the matter including the place of posting of the petitioner, may be issued by the Deputy Director of School Education-cum-District Project Officer(ISSE), Lower Siang District, Likabali, within a period of 15(fifteen) days from the date of receipt of a certified copy of this order.

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

JUDGE

Comparing Assistant