



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

Case No. : WP(C)/47/2017

SHRI TAKAM TAMI
NIGHT CHOKIDAR,
POSTED AT OLD PALIN SC,
C /O DISTRICT MEDICAL OFFICER,
DISTRICT KRA DAADI, AP.

2: SHRI ROMIN TAME
Age:
Occupation :
S/A POSTED AT PHC YANGTE
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

3: SMTI DOLANG KONIA
Age:
Occupation :
MPW POSTED AT OLD PALIN SUB CENTRE
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

4: SMTI. MARU YAKAR
Age:
Occupation :
COOK POSTED AT PHC PANIA
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

5: SHRI HA TAJAK
Age:
Occupation :
NIGHT CHOWKIDAR PHC TALI
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

6: SMTI HICHIK YANIAM
Age:

Occupation :
F/A POSTED AT PHC PALIN
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

7: SHRI TARING TAPUM

Age:
Occupation :
NIGHT CHOKIDAR POSTED AT CHC PALIN
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

8: SMTI. DAI YANIAM

Age:
Occupation :
POSTED AT CHC PANIA
C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP.

9: SHRI MOHAN CHETRY

Age:
Occupation :
S/A C/O DISTRICT MEDICAL OFFICER
DISTRICT KRA DAADI AP

VERSUS

THE STATE OF A.P. REPRESENTED BY THE CHIEF SECRETARY,
GOVT. OF AP.

2:THE COMMISSIONER

Age:
0 Occupation :
HEALTH and FAMILY WELFARE
GOVT. OF AP.

3:THE DIRECTOR

Age: 0
Occupation :
HEALTH SERVICES
GOVT. OF AP NAHARLAGUN AP.

4:THE DEPUTY COMMISSIONER

Age: 0
Occupation :
KRA DAADI DISTRICT JAMIN CAMP-PALIN AP.

5:THE DISTRICT MEDICAL OFFICER

Age: 0
Occupation :

Advocate for the Petitioner : Mr. M. Pertin, Sr. Adv.
Mr. K Dabi

Advocate for the Respondent : MrT Tagum (SC, H&FW)

BEFORE
Hon'ble MR. JUSTICE KARDAK ETE

DATE OF HEARING : 08.04.2024

DATE OF JUDGMENT: 12.04.2024

JUDGMENT & ORDER(CAV)

Heard Mr. M. Pertin, learned senior counsel assisted by Mr. K. Dabi, learned counsel for the petitioners and Mr. T. Tagum, learned standing counsel for the Health Department representing the respondents.

2. By means of this writ petition, the writ petitioners have challenged the order No. MEST-2016/124(Pt-I)/10187, dated 02.02.2017, whereby the services of the petitioners have been terminated on being found the documents invalid.

3. The case of the petitioners, in brief, is that pursuant to an advertisement dated 02.08.2016, for filling up of the posts of Multi Task Staff (referred to as MTS in short) and Multi-Purpose Workers (referred to as MPW in short), issued by the Deputy Commissioner, Kra Daadi District, Arunachal Pradesh were appointed as MTS and MPW. The selection process was preceded by constituting a Board Members for scrutiny and verification of all the documents of the petitioners which was constituted on 10.08.2016 and the process of scrutiny and verification was conducted on 10.08.2016. The selection process was consist of written and viva voce. The respondent authorities published the select list by selecting 54 candidates including the present petitioners. The 54 candidates inclusive of the petitioners were issued with appointment orders dated

14.10.2016 and posting order on 20.10.2016 in different Health Centres under Kra Daadi District, Arunachal Pradesh.

4. It is the contention of the writ petitioners that while they were serving in the respective place of posting after being duly selected and appointed, the impugned order dated 02.02.2017 was issued terminating the services of the petitioners as MTS and MPW on the alleged ground of invalid documents submitted by the petitioners.

5. Mr. M. Pertin, learned senior counsel for the petitioners submits that the services of the petitioners were terminated vide impugned order dated 02.02.2017, alleging that the documents submitted by the petitioners were found to be invalid. After receipt of the termination order, it is found that vide notification dated 22.11.2016, the petitioners were asked to submit the original documents in support of their claims within 2(two) weeks, whereas, no such notification were ever received by the petitioners. He submits that the petitioners have already submitted the relevant original documents which is under the custody of the District Medical Officer, Kra Daadi District. Except submission of the original documents of the petitioners no other documents were submitted by the petitioners. He submits that the ground of termination is alleged to be on the ground of invalid documents but the respondent authorities have not specified which documents are invalid nor any show cause notice was issued to the petitioners.

6. Mr. Pertin, learned senior counsel, submits that the respondent authorities have not given an opportunity to the petitioners inasmuch it is an elementary principle of natural justice that no person should be condemned unheard. The petitioners are the regularly appointed employees which have been selected and appointed after proper selection process and they have accrued a right to the posts of MTS and MPW and such right could not have been taken away without

affording opportunity of being heard to the petitioner. He further submits that the respondent authorities after constituting a Board of Officers for scrutiny and the verification of all the relevant documents of the petitioners and the selected candidates were directed to submit the original educational qualification certificates which the petitioners had submitted.

7. Mr. Pertin, learned senior counsel, further submits that it is learned that an enquiry committee was constituted however, the said committee has neither enquired nor sought for any documents from the petitioners. Such an enquiry is *non est* in the eyes of law as the petitioners who are the affected parties were not given any opportunity of hearing before the termination of the services of the petitioners. Therefore, he submits that the impugned order being illegal and is liable to be set aside and quashed and same may be set aside and quashed.

8. Mr. T. Tagum, learned standing counsel for the Health Department, submits that after the selection and posting of the candidates to different places within District of Kra Daadi, lots of public complaints were received against the recruitment process of District Selection Committee. In response to such complaints, the competent authorities constituted an internal Fact-Finding Committee, vide order No. MEST-2016/125, dated 09.09.2016. The Fact-Finding Committee after conducting verification on the allegation had submitted its report on 14.10.2016, whereby, it is provided *inter alia* that after checking of the qualifications through internet, the certificates of eleven candidates are found to be irregular. Thereafter, notices were issued to the petitioners vide No. MEST-2016/124(Pt-I), dated 22.11.2016, directing the eleven candidates including the present petitioners to submit the valid educational qualification certificate to the Deputy Commissioner, Kra Daadi District by 06.12.2016 positively and in the event no valid original educational qualification certificate is submitted by the candidates within the stipulated date or those who have submitting invalid

certificates, their appointments will stand cancelled w.e.f. 07.12.2016. The Deputy Commissioner, Kra Daadi District vide letter, dated 06.12.2016, has submitted the original requisite educational qualification certificate to the Director of Health Services, Government of Arunachal Pradesh.

9. Mr. Tagum, learned standing counsel, submits that the Director Health Services vide No. MEST-2016/124 Part-I, dated 17.01.2017, constituted a committee consist of four officers for scrutiny of the documents online. Accordingly, the committee for verification of certificates in respect of MTS and MPW recruitment/appointment in the District of Kra Daadi, scrutinized the certificates alleged to have been forged or otherwise. The mode of scrutiny was online verification from the available official website. After scrutiny it was found that the certificates submitted by the petitioners are not acceptable except for Smti Sosar Rupa and in case of Shri Dipankar Cagmai which reflects further physical verification from the Board. After such enquiry and verification, since the documents submitted by the petitioners were found to be invalid, the services of the petitioners were terminated. Therefore, he submits that there is no illegality in terminating the services of the petitioners.

10. Due consideration has been extended to the submissions of the learned counsel appearing for the parties and also considered the materials available on records.

11. The petitioners were appointed vide order dated 14.10.2016, to the posts of MTS and MPW, pursuant to the advertisement dated 02.08.2016, issued by the Deputy Commissioner, Kra Daadi District. Vide order dated 20.10.2016, altogether 54 candidates including the petitioners were appointed and posted in different places under the District of Kra Daadi. It reveals that various complaints were received alleging illegality and irregularity in conducting recruitment/selection process for filling up of the posts of MTS and MPW

pursuant to the advertisement dated 02.08.2016.

12. Pursuant to the various complaints the respondent authorities initially constituted a Fact-Finding Committee consisting of three members whereby, *inter alia*, it is found that the certificates of eleven candidates are found to be irregular after being checked of their educational qualification through internet and accordingly, the report was submitted to the Director of Health Services, Government of Arunachal Pradesh for appropriate decisions.

13. On perusal of the report, it is reflected that scrutinization of original educational qualification certificate through internet found "the current record deleted" in internet in respect of the petitioners. The scrutiny and the verification have been made online through internet. In respect of some of the petitioners the original certificate is in the name of different persons which were available and some of them was not found to be in the website. Thereafter, the respondent authorities stated to have issued notices to the eleven candidates including the present petitioners with a direction to submit the valid educational qualification certificate to the Deputy Commissioner, Kra Daadi District by 06.12.2016. It is also provided that in the event the candidate fails to submit the valid original educational qualification certificate or those submitting invalid certificates within 06.12.2016, the appointments of such candidates shall be cancelled w.e.f. 07.12.2016. The petitioners have seriously disputed on such issuance of notice as they have not received the said notice, dated 22.11.2016.

14. It is revealed from the record that the Deputy Commissioner, Kra Daadi District was directed to submit the original educational qualification certificates in respect of the candidates for MTS and MPW. Accordingly, the Deputy Commissioner, Kra Daadi District submitted the relevant educational qualification certificates to the Director of Health Services, Government of Arunachal Pradesh. Thereafter, a committee was constituted consisting of four officers of

the Department of Health Services for scrutiny of the documents online. As per the verification of certificates by the committee which was done online through internet, the certificates of the petitioners are found to be not acceptable. The committee found that on verification from the official website of National Institute of Open Schooling was found as "error" and the original certificates of the petitioners does not tally with the one submitted by some of the petitioners. It is also reflected that some of the petitioner's "Roll Number" belongs to some other persons, the original certificates submitted at the time of selection are also found to be belongs to some other persons other then the petitioners. It is also reflected that there is no record of Delhi Board of Secondary & Higher Secondary Schooling in the recognized list of Council of Boards of School Education in India. It is further reflected that some of the "Roll Numbers" in the relevant data were not found in the website.

15. On perusal of the impugned order dated 02.02.2017, it is noticed that the basis of termination is the verification of the documents through online and referring to the notice, dated 22.11.2016.

16. On careful consideration of the materials on record, this Court is of the view that though the respondent authorities have constituted a Fact-Finding Committee and thereafter, a second committee for scrutiny of the educational qualification certificates of the petitioners, the manner of such a scrutiny and enquiry cannot stand the scrutiny of law inasmuch as the petitioners having been appointed regularly after due selection process, the basic principle of law with regard to the enquiry ought to have been followed by following the principle of natural justice.

17. This Court finds that the manner of scrutiny and verification of the certificates of the petitioners through online to be absurd. It is not discernable from the record that the respondent authorities had made any attempt to find

out the actual validity or otherwise of the certificates of the petitioners. Such an action has certainly caused prejudice to the petitioners inasmuch as they are regularly appointed employees following the due selection process.

18. Although the respondents have stated to have issued notice before issuance of the impugned order of termination vide dated 02.02.2017, the records clearly indicated that none of the petitioners have received the said notice, rather, it is shown to have been received by some other persons. In such situation, there is no other option but to hold that the basic principles of natural justice and the procedures as required under the relevant provisions of law have not been followed.

19. It is a settled position of law that the cardinal principle of natural justice, more particularly, the opportunity of being heard has to be followed before any action is to be taken for termination of the service of the regular employee. In the present case, there is nothing to show that even the basic principles of law have been followed before terminating the services of the petitioners.

20. In view of the discussions made hereinabove, in my considered view, the impugned order, dated 02.02.2017, cannot be sustained. Consequently, the impugned order No. MEST-2016/124(Pt-I)/10187, dated 02.02.2017, is hereby set aside and quashed.

21. However, liberty is granted to the respondent authorities to proceed with departmental proceedings /enquiry/action strictly in accordance with law.

22. Writ Petition stands allowed, accordingly. However, no order as to costs.

JUDGE