

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

WP(C) No. 104 of 2024

Aldrin Nahakpam, aged about 51 years, S/o N. Ingo Singh of Thangmeiband Yumnam Leikai, P.O. & P.S. Lamphel, Imphal West District, Manipur – 795004.

... Petitioner

-Versus-

1. The State of Manipur, through the Commissioner (Hr. & Tech. Education), Government of Manipur, New Secretariat Building, North Block, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
2. The Director of University & Hr. Edn., Government of Manipur, Nityaipat Chuthek, P.O. & P.S. Imphal, Imphal West District, Imphal – 795001.
3. The Principal, Biramangol College, Sawombung, P.O. Lamlong, P.S. Heingang, Imphal East District, Manipur - 795010

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:: Mr. N. Ibotombi, Sr. Advocate asstd. by Mr. Th. Ningtamba, Advocate
For the respondents	:: Mrs. L. Monomala, GA
Date of hearing	:: 16-10-2025
Date of judgment & order	:: 16-10-2025

JUDGMENT & ORDER
(Oral)

[1] Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. Th. Ningtamba, learned counsel appearing for the petitioner and Mrs. L. Monomala, learned GA appearing for the respondents.

The present writ petition has been filed assailing the following orders:-

- (i) The order dated 27-06-2013 issued by the Secretary, Biramangol College, Sowombung, Manipur, terminating the service of the petitioner w.e.f. 26-04-2013;
- (ii) The order dated 16-01-2019 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, rejecting the representation dated 05-12-2016 submitted by the petitioner for revoking his termination order;
- (iii) The order dated 20-04-2023 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, rejecting the petitioner's representation dated 21-01-2019 and the representation submitted by his wife dated 28-10-2020 requesting the Government for absorption of his service as Lecturer in Biramangol College by submitting a fresh proposal.

[3]

The petitioner has also prayed for issuing a direction to the respondents to absorb the petitioner as Assistant Professor in the discipline of Botany at Biramangol College, Sawombung, Imphal East District, Manipur.

[2] The facts of the present case, in a nutshell, are that the petitioner was initially appointed as a Lecturer in the Botany Department by an order dated 03-09-1997 issued by the Secretary of the Governing Body, Biramangol College, Sawombung, Manipur. While the petitioner was serving as such, he was placed under suspension by the Secretary, Biramangol College, Sawombung, by issuing an order dated 09-03-2013 on ground of unauthorized prolonged absence from duties and non-compliance of Show-Cause notice issued to him. In the said order, it was stated that the period of absence of the petitioner w.e.f. 01-06-2011 to 31-05-2012 shall be treated as Extraordinary Leave. Subsequent thereto, on the basis of the Resolution No. 5 of the Governing Body of the Biramangol College taken in its meeting held on 26-04-2013, the service of the petitioner was terminated w.e.f. 26-04-2013 by issuing an order dated 27-06-2013 by the Secretary, Biramangol College, Sowombung, Manipur.

[3] In the interregnum, the Biramangol College, along with five other Aided Colleges, was converted into a full-fledged Government

College vide order dated 28-06-2018, issued by the Secretariat: Higher & Technical Education Department, Government of Manipur. Subsequent thereto, the petitioner submitted a representation dated 05-12-2016 to the then Principal, Biramangol College requesting for revoking his termination, however, the said representation was forwarded by the then Principal, Biramangol College to the Government for its consideration and upon a direction given by this Court on 17-02-2017 in WP(C) No. 1055 of 2016, the Commissioner (Higher & Technical Education), Government of Manipur, rejected the said representation by issuing an order dated 16-01-2019. Thereafter, the petitioner submitted a representation dated 21-01-2019 to the Director (University & Hr. Edn.), Government of Manipur and another representation dated 28-10-2020 was submitted by his wife to the Commissioner (Higher & Technical Education), Government of Manipur, inter alia, requesting for considering his case for absorption as a Lecturer in Biramangol College after revoking the termination order. The said representation was rejected by the Government by issuing an order dated 20-04-2023, hence the present writ petition.

[4] Mr. N. Ibotombi, learned senior counsel appearing for the petitioner submitted that the petitioner was suspended from service by the then Secretary of Biramangol College, Sawombung, by issuing an order dated 09-03-2013 on ground of unauthorized prolonged absence

from duties on the part of the petitioner. However, it has been pointed out by the learned senior counsel that under the said suspension order, it has been clearly stated that the period of absence of the petitioner w.e.f. 01-06-2011 to 31-05-2012 shall be treated as Extraordinary Leave, meaning thereby that the absence from duties has been treated by the authorities as on Extraordinary Leave. The learned senior counsel further submitted that the termination order has been issued by the authorities without holding any inquiry or without giving the petitioner an opportunity of being heard and in complete violation of the principle of natural justice. It has also been submitted that the said termination order has been issued in complete violation of the provisions under para. 4(b) of the rules regarding Conduct and Discipline of the Employees of Aided Colleges. For ready reference, the provisions of Rule 4 are reproduced hereunder:-

“4(a) The following penalties may for good and sufficient reasons be imposed upon any employee by the authority which appoints him/her.

- (i) Censure,***
- (ii) Withholding of increments.***
- (iii) Reduction in rank,***
- (iv) Recovery from pay.***
- (v) Removal from service, which does not disqualify for future employment.***

“4(b) None of these penalties shall be imposed on an employee/until he/she has been given reasonable opportunity of showing cause against the action proposed to be taken in regard to him/her, and without approval of the Director of Education provided that this clause shall not apply-

[6]

- (i) Where a person is dismissed or removed or reduced in rank on the ground of conduct which had led to his/ her conviction on a criminal charge.*
- (ii) Where the authority empowered to dismiss or remove an employee or to reduce him/ her in rank is satisfied that for special reasons to be recorded in writing, it is not reasonably practicable to give to that person opportunity of showing cause or.*
- (iii) When the appointing authority is satisfied that in the interest of the institution or security of the State, it is not expedient to give the persons such an opportunity.*

Interpretation:- If any question arises relating to the interpretation of these rules it shall be referred to the Government whose decision there on shall be final.”

[5] The learned senior counsel strenuously submitted that the impugned orders dated 16-01-2019 and 20-04-2023 issued by the Secretariat: Higher & Technical Education Department, Government of Manipur, rejecting the representations submitted by the petitioner have been issued without giving any reason and without considering the factual position and the provisions of the above quoted Rule 4(b) of the rules regarding Conduct and Discipline of the Employees of Aided College (hereinafter “**Conduct and Discipline Rules**”, for short). The learned senior counsel, accordingly, submitted that the said impugned orders as well as the termination order dated 09-03-2013 are liable to be quashed and set aside as being arbitrary and contrary to the statutory provisions.

[6] It has also been submitted by the learned senior counsel that the Director of University & Higher Education, Government of Manipur,

wrote a letter dated 06-04-2021 to the Principal, Biramangol College, Sawombong, requesting the latter to submit a detailed report along with views and comments as to whether the termination of the petitioner was done in accordance with the Manipur Education Code, 1982 or not. In response to the said letter, the then Principal, Biramangol College, wrote a letter dated 24-04-2021 to the Director, University & Higher Education stating, inter alia, that the order of termination of the petitioner was not done in accordance with the provisions of the Manipur Education Code, 1982. Thereafter, the Director of University & Higher Education forwarded a copy of the letter of the Principal, Biramangol College dated 24-04-2021 to the Commissioner (Higher & Technical Education), Government of Manipur, for favour of necessary action. It has been submitted by the learned senior counsel that despite such report to the effect that the termination of the petitioner was not in accordance with the provisions of the Manipur Education Code, the authorities of the State Government have not taken up any appropriate action and they have rejected the rightful claim of the petitioner by issuing the two impugned orders dated 16-01-2019 and 20-04-2023. According to the learned senior counsel, such action of the State Government is arbitrary and not sustainable in the eyes of law.

[7] It has also been submitted by the learned senior counsel that the Director of University & Higher Education, Government of Manipur,

wrote a letter dated 22-12-2021 to the Principal, Biramangol College, requesting the latter to furnish a detailed report on the proposal to absorb the two allegedly left out teachers of the college including the present petitioner with supporting documents. In response thereto, the Principal, Biramangol College, Sawombung, furnished the reports for absorption in Government service in respect of two left out teachers including the present petitioner along with necessary documents under a cover of a letter dated 30-12-2021. The learned senior counsel submitted that as all the necessary details on the proposal for absorption of the petitioner has already been submitted to the concerned authorities of the State Government, a prayer has been made for issuing a direction to the respondents to consider the case of the petitioner for his absorption in Government service after quashing and setting aside the impugned termination order as well as the impugned rejection orders.

[8] Mrs. L. Monomala, learned GA appearing for the respondents, by drawing the attention of this court at para. 9 of the impugned order dated 20-04-2023, submitted that the authorities have elaborately considered the claim of the petitioner on merit and thereafter, rejected his claim by issuing the impugned orders. For easy reference, para. 9 of the impugned order dated 20-04-2023 is reproduced hereunder:-

“9. And whereas, accordingly the Directorate of (UHE), Manipur vide letter no. DUHE 17/16/2021-DUHE-DU & HE dated 15-12-2022 has

submitted verification committee reports along with other 2 (two) the cases and report is reproduced as follows:

- i) Aldrin Nahakpam was appointed as Lecturer in Botany vide order no. 1/58/Appt/90-BMC dated 11-09-1997 in Biramangol College, Sawombung. He joined the College on 11-09-1997. His service was confirmed vide order no. 1/93/SL/93-BMC dated 14-07-2001.*
- ii) His name did not appear in the list of staff submitted by the Principal of Biramangol College, Sawombung to the Director (UHE), Manipur on 17-12-2016.*
- iii) He filed a writ petition being no. 1055 of 2016 before the Hon'ble High Court of Manipur praying to consider his application for absorption to the Government and Court in its order dated 17-02-2017 directed the Government to consider and pass appropriate speaking orders on the representation submitted by him for absorption to the Government.*
- iv) The Principal of the College submitted a report dated 30-12-2021 to the Director (UHE), Manipur along with necessary supporting documents which include his appointment/ confirmation orders, Participation Certificates for Orientation/ Refresher Course/ Workshop and photocopy of Identity Card No. A-662/R issued by the College.*
- v) His name is also found recorded in the "College Statistics, 2008-2009" published by Manipur University."*

[9] The learned GA also submitted that in paras. 5 & 6 of the affidavit-in-opposition filed on behalf of the respondent No. 1, it has been clearly stated that the petitioner was suspended from service by the then Secretary, Governing Body of the Biramangol College, Sawombung, vide order dated 09-03-2013 and never revoked the said suspension and subsequently, the service of the petitioner was terminated w.e.f. 26-04-2013 vide order dated 27-06-2013 issued by the then Secretary, Governing Body of Biramangol College, Sawombung. The learned GA further submitted that as the impugned termination order was issued by

the then Secretary, Governing Body of the Biramangol College, Sawombung, the Administrative Department of the Government has no authority to override the order issued by the then Governing Body and that the only authority that can revoke the termination order is the Governing Body itself. According to the learned GA, the State respondents have no authority either to examine the legality or revoke the termination order made by the Governing Body. It has also been submitted by the learned GA that the name of the petitioner was never submitted to the Government for consideration by the concerned authorities for his absorption in Government service and as such, the administrative authority has no power to consider the case of the petitioner especially when the service of the petitioner had already been terminated w.e.f. 26-04-2013. The learned GA, accordingly, submitted that the present writ petition deserves to be dismissed as being devoid of merit.

[10] I have heard at length the rival submissions advanced by the learned counsel appearing for the parties and also carefully examined all the materials available on record.

In the present case, there is no dispute with regard to the fact that the service of the petitioner has been terminated by the Secretary, Governing Body of the Biramangol College, Sawombung, without

holding any inquiry to the allegation made against the petitioner and without affording any opportunity of being heard to the petitioner. It is also on record that while issuing the suspension order dated 09-03-2013 it has been clearly mentioned that the period of absence of the petitioner w.e.f. 01-06-2011 to 31-05-2012 shall be treated as Extraordinary Leave. As such, no question arises for penalising the petitioner on account of his absence during the said period. In view of these undisputed facts, this court is of the considered view that the then Secretary of the Governing Body of the Biramangol College, Sawombung, terminated the service of the petitioner in complete violation of the principle of natural justice and also the provisions under para. 4(b) of the Conduct and Discipline Rules, wherein it is provided that the removal from service shall not be imposed on an employee until he/ she has been given reasonable opportunity of showing cause against the action proposed to be taken against him and without the approval of the Director of Education.

[11] In the present case, neither any reasonable opportunity has been given to the petitioner before termination from his service nor has the Governing Body obtained prior approval of the Director of Education before issuing a termination order. In view of the undisputed facts, this court has no hesitation to arrive at a conclusion that the termination order has been issued arbitrary and in complete violation of the principle of

natural justice and the provisions under para. 4(b) of the Conduct and Discipline Rules. Accordingly, the impugned orders dated 27-06-2013, 16-01-2019 and 20-04-2023 are hereby quashed and set aside. Consequently, the respondents are directed to reinstate the petitioner back in service forthwith with all consequential benefits as permissible in law. Consequent upon his reinstatement in service, this court is of the considered view that the petitioner is entitled to have his case considered by the authorities for his absorption in Government service as recommended by the Director of Higher & Technical Education, Government of Manipur, in its letter dated 14-12-2022 submitted to the Commissioner (Higher & Technical Education), Government of Manipur. Ordered accordingly. It is made clear that the whole exercise should be completed within a period of four months from today.

With the aforesaid directions, the present writ petition is disposed of. In view of the facts and circumstances of the present case, there will be no order as to cost.

JUDGE

FR / NFR

Devananda