

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

WP(C) No. 990 of 2021

Sarangthem Kishan Singh

...Petitioner

Vrs.

State of Manipur; & 9 Ors.

...Respondents

**- B E F O R E -
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH
JUDGMENT & ORDER (ORAL)
10.12.2025**

[1] Heard Mr. L. Shashibhushan, learned senior counsel assisted by Md. Fakhruddin, learned counsel appearing for the petitioner, Mrs. L. Monomala, learned GA appearing for the respondents No. 1, 2 & 3 and Mr. Satish, learned counsel appearing for the respondents No. 4 & 6-10.

None appeared on behalf of the respondent No. 5.

The present writ petition has been filed assailing the order dated 22.01.2021 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur keeping in abeyance the appointment order in respect of the present petitioner and order dated 16.11.2021

issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur terminating the service of the petitioner as Lab. Assistant in Kakching Khunou College.

[2] The brief facts of the present case in a nutshell are that the Secretary, Governing Body of Kakching Khunou College issued a notification dated 10.10.2016 inviting applications from eligible candidates for recruitment against 6 (six) posts including 4 (four) posts of Lab. Assistant in the Kakching Khunou College. Pursuant to the said notification, the petitioner applied for the post of Lab. Assistant.

Subsequently, on being selected, the petitioner was appointed as Lab. Asst. (Zoology) by an order dated 01.12.2016 issued by the Chairman, Governing Body, Kakching Khunou College along with 5 (five) other persons and the petitioner joint service w.e.f. 02.12.2016.

[3] By a letter dated 13.12.2016, the Office of the Director of Univ. & Higher Education requested the Secretary/Principal, Kakching Khunou College to furnish the information/particulars of the employees of the College on or before 17.12.2016. Pursuant to

the said request made by the office of the Director of Univ. & Higher Education, the Principal, Kakching Khunou College submitted the particulars of the employees of Kakching Khunou College (both approved and unapproved) under cover of a letter dated 17.12.2016. The name of the petitioner appeared at serial No. 21 of the list of the non-teaching staffs of the said college and his date of appointment is shown as 01.12.2016.

[4] Subsequently, by an order dated 28.06.2018 issued by the Secretariat: Higher & Technical Education Department, Government of Manipur, 6 (six) Colleges including Kakching Khunou College was taken over by the Government and converted into full-fledged Government Colleges.

Pursuant to the taking over of the Kakching Khunou College as a full-fledged Government College, the Secretariat: Higher & Technical Education Department, Government of Manipur issued an order dated 19.03.2020 appointing all the teaching and non-teaching staffs of the 6 (six) taken over Colleges, including the petitioner, into Government service w.e.f. 22.02.2019. The name of the petitioner appeared at serial No. 1 of the non-teaching staffs of

Kakching Khunou College which was enclosed in the said order dated 19.03.2020.

[5] Later on, by an order dated 22.01.2021 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, the order dated 16.03.2020 (sic. 19.03.2020) appointing the petitioner in Government service as Lab. Assistant in Kakching Khunou College was kept in abeyance till the submission of the final report by the Director (UHE), Manipur and subsequent decision by the Government.

Thereafter, by an order dated 16.11.2021 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, the service of the petitioner was terminated, hence, the present writ petition.

[6] Mr. L. Shashibhushan, learned senior counsel appearing for the petitioner assailed the impugned orders dated 22.01.2021 and 16.11.2021 only on the ground that the said impugned orders have been issued in violation of the provisions of article 311 (2) of the constitution of India. Elaborating this point the learned senior counsel submitted that the petitioner was appointed into

Government service by an order dated 19.03.2020 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur. It has also been submitted that even though, the petitioner is a member of Civil service of the Government of Manipur, the authorities removed/terminated the petitioner from service without holding an enquiry and without informing him of the charges made against him and also without giving a reasonable opportunity of being heard. According to the learned senior counsel, the impugned termination orders have been issued by the authorities in complete violation of the constitutional provisions as provided under article 311 (2) of the constitution of India. It has been strenuously submitted by the learned senior counsel that on this ground alone, the impugned orders deserve to be quashed and set aside.

[7] In support of his submissions, the learned senior counsel cited the judgment rendered by the Hon'ble Apex Court in the case of **"Government of Andhra Pradesh and Another Versus N. Ramanaiah"** reported in **(2009) 7 SCC 165** wherein at Paragraph No. 13 & 14 of the judgment it has been held as under:-

"13. The elaborate provisions in Part XIV relating to services under the Union and the States indicate the importance which the

framers of our Constitution attached to the civil service. The trinity of Articles 309, 310 and 311 deal with the services regulating recruitment, and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or any of the State.

"14. Every person who is a member of civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor. Article 311(2) qualifies the pleasure of the President or the Governor, and the pleasure cannot be exercised if a government servant's service is to be terminated as a punishment for misconduct. In such a case, Article 311(2) mandates that a reasonable opportunity of being heard in respect of the charges must be given to the government servant. Any order inflicting the punishment of dismissal, removal without giving the opportunities as is required by Article 311(2) would be null and void as violative of an express constitutional requirement."

[8] Mrs. L. Monomala, learned GA appearing for the State respondents submitted that the appointment of the petitioner is clouded with doubt since his initial appointment order was issued on 2 different dates, one issued by the Chairman on 01.12.2016 and another issued by the Secretary on 21.11.2017 of erstwhile Governing Body of the College. It has also been submitted that the authorities asked the principal of the College to furnish information/documents for re-verification in respect of the appointment order of the petitioner, however, the principal could not furnish any valid or legitimate document to rely on the appointment of the petitioner.

[9] It has also been submitted by the learned GA that a single employee cannot have two appointment orders issued on two different dates by two different designated persons of the erstwhile Governing Body of the College and that the Government is perplex to which appointment order it has to be acted upon.

It has also been submitted that as the Director of University and Higher Education, Manipur was not able to verify which of the two appointment orders is genuine, in the absence of any DPC proceedings, resolution of the Governing Body as well as the attendance registrar and Acquaintance records for verification, the Governor of Manipur was constrained to order the termination of the service of the petitioner by issuing the impugned orders to meet the ends of justice and after minute examination.

It has further been submitted that the said impugned termination order was issued by following the rule of law and that there is no erroneous or malafide intention on the part of the Government. The learned GA accordingly submitted the present writ petition deserves to be dismissed as devoid of merit.

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

The service of the petitioner was terminated on the following grounds:-

a) There are two different orders appointing the petitioner initially as Laboratory Assistant, (i) order date 01.12.2016 issued by the Chairman of the Governing Body, Kakching Khunou College appointing the petitioner as Laboratory Assistant (Zoology) along with 5 (five) other persons, (ii) order dated 21.11.2017 issued by the Secretary of the Governing Body, Kakching Khunou College appointing the petitioner as Laboratory Assistant along with 2 (two) other persons.

b) The Directorate of University and Higher Education was not able to verify which of the 2 (two) appointment orders is genuine and which one is not genuine as no records such as DPC proceedings,

resolution book of the Governing Body etc., necessary for verification are not available either in the Directorate or the College.

- c) The Administrative Department came to the conclusion that there is no genuine appointment order in respect of the petitioner, accordingly, the authorities come to the conclusion that the service of the petitioner is liable to be terminated.

[11] With regard to the first ground, it is to be pointed out that under the said appointment order dated 01.12.2016, the petitioner was appointed along with other 5 (five) persons and that acting on the basis of the said appointment order the authorities appointed all the 6 (six) persons, including the petitioner, into Government service and that all the other 5 (five) persons are still continuing in Government service. Accordingly, the act of the authorities in declaring the said appointment order dated 01.12.2016 as not genuine in respect of only the petitioner is unreasonable and arbitrary and as such, this Court cannot countenance with such decision arrived at by the authorities.

[12] With regard to the ground No. 2, it is to be noted that in Para 11 of the writ petition, the writ petitioner took a specific plea that subsequent to the conversion of Kakching Khunou College as a full-fledged Government College, vide order dated 28.06.2018 issued by the Secretariat: Higher & Technical Education Department, and as directed by the Director of University and Higher Education (respondent No. 2), the then principal of Kakching Khunou College handed over the Governing Body Resolution Book, Acquittance Roll (both approved and unapproved staff) and Daily Attendance Register to Shri Th. Roben Singh, OSD (Sc) and Shri M. Guni Singh, LDC of the office of the Director of University and Higher Education and that the said handing over and taking over was witness by Smt. M. Sarda Devi, the then principal of the College and M. Santa Singh, a staff of the College and the said officials appended their signatures in the acknowledgment receipt in token of receipt of the aforesaid document on 12.09.2018, the petitioner also enclosed the said document as Annexure-A/9 to the writ petition. However, the said statement is not disputed by the respondents No. 1 & 2 and as such, this Court is of the considered view that the said statement made by

the petitioner shall be taken as true. Therefore, this Court cannot accept the reason given by the authorities that no such records are available for verification of the appointment order of the petitioner.

[13] With regard to the ground No. 3, it is to be noted that the then Secretary of the Governing Body of Kakching Khunou College (Respondent No. 5 herein) made a categorical statement at paragraph 4 of his affidavit-in-opposition that the petitioner was already appointed by the Governing Body, Kakching Khunou College on 01.12.2016 and that his name has been wrongly included in the subsequent order dated 21.11.2017 due to inadvertent mistake. It has also been stated that the appointment order dated 21.11.2017 was erroneous with regard to the inclusion of the name of the petitioner as his actual date of appointment is 01.12.2016. It is to be pointed out that none of the authorities disputed or denied such statement made by the respondent No. 5. Moreover, without finding out the genuineness of the statements made by the petitioner as well as the respondent No. 5 and also the genuineness about the initial appointment order of the petitioner dated 01.12.2016, the authorities declared that there is no genuine appointment order in

respect of the petitioner. This Court cannot bring itself to agree with such act of the respondents and accordingly this Court is of the considered view that such act of the respondents is unreasonable and arbitrary.

[14] In the present case, the petitioner challenged the impugned orders on the ground that the said impugned orders have been issued in violation of the provisions of article 311 (2) of the constitution of India. Article 311 (2), inter-alia, provides that no person who is a member of a Civil Service of a State shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

In the case of N. Ramanaiah (Supra) cited on behalf of the petitioner, the Hon'ble Apex Court held that any order inflicting the punishment of dismissal, removal without giving the opportunities as is required by article 311 (2) of the constitution of India would be null and void as violative of an express constitutional requirement. This Court respectfully follow the principal laid down by the Hon'ble Supreme Court.

[15] In the present case, there is no dispute with regard to the following facts:-

- 1) No charges was framed against the petitioner;
- 2) No enquiry was held with regard to any charges framed against the petitioner after giving an opportunity to the petitioner to defend himself;
- 3) A reasonable opportunity of being heard was not given to the petitioner before terminating him from his service.

In view of the above factual positions, this Court come to the conclusion without any hesitation that the service of the petitioner was terminated by issuing the impugned orders in flagrant violation of the provisions under article 311 (2) of the constitution of India and in complete violation of the principles of natural justice. Accordingly, the present writ petition is allowed by quashing and setting aside the impugned orders dated 22.01.2021 and 16.11.2021.

[16] By an order dated 19.01.2022 passed by this Court in the present writ petition, the impugned termination order dated

16.11.2021 was suspended. It has been submitted by the learned senior counsel appearing for the petitioner that as the impugned termination order was suspended by the said interim order dated 19.01.2022, the petitioner was allowed to continue in his service till today.

[17] In view of the above, it is hereby directed that the respondents No. 1 & 2 shall allow the petitioner to continue in his service with all consequential benefits.

[18] With the aforesaid directions, the present writ petition is disposed of.

There will be no order as to costs.

JUDGE

Sapana