

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.373 OF 2010

Sri Prafulla Kumar Chowdhury,
S/o Late Mukundalal Chowdhury of
Vill & P.O. Purba Laxmi Bill,
P.S. Bishalgarh, District- West Tripura.

... Petitioner

- Vs -

- 1. The State of Tripura,**
Represented by the Secretary-cum-Commissioner,
Department of Education,
Government of Tripura,
P.O. Agartala.
- 2. The Director of School Education,**
Government of Tripura,
P.O. Agartala.
- 3. The Block Project Co-Ordinator (SSA),**
Bishalgarh, Dukli & Jampuijala Block,
Inspector of Schools, Bishalgarh,
West Tripura, P.O. Bishalgarh.
- 4. Sri D.L. Debnath,**
Block Project Co-Ordinator (SSA),
Bishalgarh, Dukli & Jampuijala Block,
Inspector of Schools, P.O. Bishalgarh,
West Tripura.

....Respondents

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner	: Mr.K. Roy, Advocate.
For the respondents	: Mrs. A. S. Lodh, Addl. G.A.

Date of hearing and delivery of Judgment & order	: 03.09.2015.
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Whether Fit for reporting : **NO**

JUDGMENT & ORDER (ORAL)

Heard learned counsel Mr. K. Roy for the petitioner and learned Addl. G.A., Mrs. A. S. Lodh for the respondents.

2. The petitioner, a retired teacher (Headmaster) was appointed as a Cluster Resource Person (for short, CRC) under Sarva Shiksha Abhiyan (for short, SSA) for Cluster Resource Centre of Madhumala S.B. School by a memo dated 30.09.2004, issued by respondent No.3, The Block Project Co-ordinator (SSA). The engagement was for a period of 6(six) months on a fixed remuneration of Rs.3000/- per month w.e.f. 1st October,2004. It was further stipulated in the memo of engagement (Annexure-2 to the writ petition) that the person engaged shall be terminated from the engagement automatically on expiry of 6(six) months from the date of engagement and continuation of engagement for further 6(six) months shall be subject to satisfactory performance of the person in the first six months of engagement.

It is the case of the petitioner that from the date of engagement, he being a retired teacher performed his job with all efficiency and devotion to the satisfaction of the authority and therefore his engagement was extended time to time. It is alleged by the petitioner that by memo dated 04.03.2010 (Annexure-6 to the writ petition) he was terminated from the post making an allegation that because of non satisfactory performance his services would not be required.

It is submitted by learned counsel Mr. Roy appearing for the petitioner that before issuing the order of termination no

scope was given to the petitioner to show cause and that the termination order was passed without taking into notice the fact of such termination to the Block Level Education Committee (for short BLEC) of Bishalgarh Block which is evident from Annexure-8 to the writ petition i.e. letter of B.D.O., Bishalgarh dated 18.04.2010. The order is violative of the fundamental right of the petitioner and hence, the order should be set aside and quashed.

3. Mrs. A. S. Lodh, learned Addl. G.A. submitted that Annexure-3 to the writ petition, the memo dated 06.10.2009 itself shows that the petitioner was asked to show cause and in response to that memo dated 06.10.2009, the petitioner submitted a detailed representation to respondent No.3 and after considering all aspects the impugned memo dated 04.03.2010 was issued.

4. Without entering into other aspect of the matter, I find that the petitioner a retired school teacher (Headmaster) was engaged as a Cluster Resource Person for the Cluster Resource Centre Madhumala S.B. School under Sarva Shiksha Abhiyan. The appointment letter was issued by respondent No.3 which reads as follows:-

*"No.F 5(1)/SSA/IS-BSL/2002/1654(B)/35
Government of Tripura
Education Inspectorate
Bishalgarh, Tripura (W)
(SSA Cell)*

Dated, Bishalgarh, the 30th Sept.2004

M E M O

*Subject:- Engagement of Cluster Resource Person under Bishalgarh & Duffi Block
under Sarva Shiksha Abhiyan.*

Sri/Smt. Prafulla Kumar Chowdhury S/O, D/O. Late Mukunda Lal Chowdhury of village & P.O. Purba Laxmibill P.S. Bishalgarh District:- Tripura (w) is here by engaged as a Cluster Resource Person for Cluster Resource centre of Madhumala S.B. School under Sarva Shiksha Abhiyan on a monthly honorarium of Rs.3,000/- (Rupees three thousand) for a period of 6(six) months w.e.f. 1st Oct.,2004 and is posted to Cluster Resource centre of Madhumala S.B. School under Bishalgarh/Dukli Block under Education Inspectorate, Bishalgarh.

He/She will report for duties on 01-10-2004 to the Head of the Resource Centre of Madhumala S.B. School.

The engagement will be subjected to the following condition.

- 1) The engagement shall be of only 6(six) months on a fixed monthly honorarium as given above.*
- 2) The person so engagement shall be terminated from the engagement automatically on expiry of 6(six) month from the date of engagement.*
- 3) Continuation of engagement for another 6(six) month shall be subject to satisfactory performance of the person in the 1st 6(six) month of the engagement.*

The expenditure involved on this account shall be debatable against the fund available under SSA during the year 2004-2005.

He is requested to report his place of posting.

*Sd/-
(R.N.Debbarna)
Block Project Co-ordinator,
Bishalgarh, Dukli & Jampaijala Block,
(Inspector of Schools, Bishalgarh)*

Copy to:-

- 1) The District Education Officer, West District Zonal Office, Agartala for information.*
- 2) The State Project Director, Sarva Shiksha Mission, Tripura for kind information.*
- 3) The Head of the Resource Centre of C.R.C. for information.*
- 4) Individual concerned for information.*
- 5) Cash Section (SSA Cell) for information.*

*Sd/-
(R.N.Debbarna)
Block Project Co-ordinator,
Bishalgarh, Dukli & Jampaijala Block,
(Inspector of Schools, Bishalgarh)"*

5. The above memo clearly shows that the initial engagement was for 6(six) months and the conditions further speak that continuation of engagement for another 6(six) months shall be subject to satisfactory performance of the person in the first 6(six) months. So the appointment order stipulates for

engagement of first 6(six) months and then continuation for another 6(six) months. The petitioner did not submit any document to show that after one year he was again engaged or that the engagement dated 30.09.2004 was extended time to time.

6. It is the contention of Mr. Roy, learned counsel, that the petitioner continuously performed the job till the date of his termination by memo dated 04.03.2010. There is no scrap of paper submitted by the petitioner that after one year from 30.09.2004, engagement of the petitioner was either continued by issuing further memo or that he was engaged afresh for a fresh term. The petitioner has to show that he was engaged for a term beyond the period of 4th March, 2010 and before the term was over he was terminated from the job for non satisfactory performance. In the absence of any such document, if the petitioner's job was terminated on 04.03.2010 at the end of any period of engagement then the petitioner cannot have any case to agitate before the Court. Learned counsel Mr. Roy further submitted that the termination was stigmatised since it was alleged that for non satisfactory performance he was terminated to which learned Addl. G.A. has submitted that it is not stigmatic. The non satisfactory performance has been mentioned in the notice dated 06.10.2009. Be that as it may, the initial engagement was made by the Block Project Co-ordinator i.e. respondent No.3 and termination order was also made by the same person. He has mentioned that it was brought to the knowledge of Block Level Education Committee, Bishalgarh but referring to Annexure-8 to

the writ petition, learned counsel Mr. Roy submitted that B.D.O. of Bishalgarh Block has clearly stipulated that the issue was not apprised to him. The Block Level Education Committee seems to be the Panchayat Samiti to which someone is Chairman and according to Mr. Roy, B.D.O. was the Executive Officer of the Panchayat Samiti. Though it is mentioned in Annexure-6 to the writ petition i.e. in the memo dated 04.03.2010 that the matter was brought to the knowledge of Block Level Education Committee, Bishalgarh Block but in the engagement order or in any other document there is nothing to show that before termination of any person engaged on contract basis the Block Level Education Committee shall be taken into confidence or that approval has to be taken from Block Level Education Committee.

7. What the petitioner was supposed to prove is that he has been terminated before end of a particular term for which he was engaged. That very basic aspect of the petitioner's case has not been proved by the petitioner and hence, the memo dated 04.03.2010 cannot be said to be illegal or arbitrary and hence, I find no merit in the writ petition and the writ petition accordingly stands dismissed.

8. Parties to bear their own costs.

JUDGE