
(2015) 08 GAU CK 0033
In the Gauhati High Court
Case No : WP(C) No. 3315 of 2007

Abul Kalam Azad and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 12-08-2015

Acts Referred:

Citation : (2015) 4 GLT 514 : (2015) LabIC 4637

Hon'ble Judges : Hrishikesh Roy, J.

Bench : Single Bench

Advocate : R.P. Sarmah, Sr. Advocate, A. Nath, B.K. Nath, J. Rajkhowa and R. Devi, Advocates, for the Appellant; N.J. Khataniar and A. Verma, SCs, for the Respondent

Final Decision : Disposed Off

Judgement

Hrishikesh Roy, J.—Heard Ms. R. Devi, the learned counsel appearing for the petitioners. The respondent Nos. 1 to 5 are represented by Mr. N.J. Khataniar, the learned standing counsel for the Department of Elementary Education. Ms. A. Verma, the learned standing counsel for the Finance Department appears for the respondent No. 6. The 49 petitioners were appointed as stipendiary teachers in different L.P. Schools of Nalbari district and 3 sample appointment orders of 04.12.1999 issued by the then D.I. of Schools S.N. Sarma are marked here as Annexure-D series. The appointments were made against plan posts, but subsequently their services were normalized through different orders passed by the departmental authorities of Nalbari district.

2. However, when it was realized that appointments were illegally made without selection and in violation of the Assam Elementary Education (Provincialisation) Rules, 1977, show-cause notices were issued on 08.09.2006 (Annexure-I series) by the Director of Elementary Education (DEE), Assam, whereby the appointees were asked to produce their original appointment orders to verify the legality of the appointments or otherwise, their appointments were proposed to be cancelled.

3. Some of the appointees responded to the show-cause notices and after due consideration and on the basis of the report given by the Enquiry Committee, the appointments were found to be made without any sanction posts in violation of the rules and accordingly order(s) was issued on 22.12.2006 and 26.12.2006 respectively to discontinue the services of the illegal appointees.

4. The petitioners contend that they offered their candidatures by responding to the advertisement issued in January, 1997 (Annexure-A) by the DEE, Assam, whereby 7500 vacancies were advertised in L.P./M.E. Schools of Assam and accordingly it is argued that they were appointed through due process.

5. However, the departmental lawyer Mr. N.J. Khataniar submits that large scale illegal appointments were made during that period by departmental officials like S.N. Sarma, A. Choudhury, G.N. Haloi and since those appointments were made against non-existent posts, there can be no justification to continue the services of the illegal appointees.

6. In her turn, Ms. R. Devi, the learned counsel submits that direction was issued by this Court to verify such appointment process through Screening Committees, but although the process was initiated 3/4 years earlier, the result of the deliberation is still to be made known to the petitioners.

7. The departmental lawyer in response submits that, newspaper advertisements were issued to provide redressal mechanism to the terminated teachers to establish the legality of their appointments and 35 petitioners of this case had appeared before the Screening Committee, to project the bona fide of their appointments. Recently the five Divisional Commissioners have furnished their report(s) for consideration of the Government and the outcome of this exercise will determine the fate of the terminated teachers. After the reports are taken into account, the Government will either uphold the termination or order reappointment/regularization of services of those teachers, who are found to have been appointed, through a legally acceptable process.

8. From the above narratives it becomes clear that large scale illegal appointments were made by dishonest departmental officers for extraneous consideration and currently a process is on to verify the legality of the appointments in the Schools of Nalbari and other districts. If favorable conclusions are drawn, the difficulties of the concerned appointees will be resolved by way of regular appointment/regularization or else the decision to terminate their services will stand affirmed.

9. Confronted with the above scenario and expecting the State authorities to appropriately deal with the matter on the basis of the recommendations made by the Screening Committees, I close this proceeding by directing the respondents to decide on the legitimacy of the appointments given to the petitioners. This exercise should be completed expeditiously and preferably within 8(eight) weeks of receipt of this order. Thus the termination order(s) issued by the DEE, Assam on 22.12.2006 and 26.12.2006 respectively are made subject to the result of the

current exercise undertaken by the Government. If any of the petitioners are aggrieved by an adverse decision of the authorities, they have the liberty to challenge the same through an appropriate proceeding. It is ordered accordingly. With the above order, the case is disposed of No cost.