

(2011) 01 GAU CK 0009

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 143 (K) of 2000

L.Chongji Phom

APPELLANT

Vs

State of Nagaland & Ors.

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Citation : (2011) 5 GLT 296

Hon'ble Judges : C.R.Sarma, J

Bench : Single Bench

Advocate : Advocate appeared for the Petitioner: Mr. R. Iraki., Advocate appeared for the Respondents: Mr. N. M. Jamir., Advocates appearing for Parties

Judgement

C. R. Sarma, J.—Head Mr. R. Iralu, learned counsel, appearing for the petitioner. Also heard Mr. N.M. Jamir, learned Govt. Advocate, appearing for the State respondents.

2. The petitioner, being trained in Knitting trade (ITI), was temporally appointed, vide order, No. ED/EL/L/5/20012002, dated 19.11.2001, issued by the Joint Director, Directorate of School Education, Nagaland, Kohima, as Knitting Instructor at the Government Middle School, Yongnya, under the establishment of Deputy Inspector of School, Longleng, in the pay scale of Rs. 40001006000/ per month plus other allowances as prescribed by the Government of Nagaland, from time to time against the creation of post, vide No.ETS950/83, dated 01.05.1986 and accordingly she joined the service in the said school. Subsequently, vide order, NO.EDN/EST27/20002001/166, dated Longleng the 3rd July, 2003, issued by the Deputy Inspector of Schools, Longleng, Govt. of Nagaland, the petitioner was transferred to GMS, Kangching from GMS, Yongyah, vice Smti. H. Tongyung Phom, who was transferred from GMS, Kangching to GMS, Yongyah.

3. According to the petitioner, in view of issuance of some bogus appointment letter, the respondent No. 3 in 2006, verbally asked the petitioner not to attend her duties until an enquiry, regarding all bogus appointments was made. On being

so instructed, the petitioner ceased to attend her duties from 2006. Thereafter, a verification regarding bogus appointments was made and eight lists of genuine appointments were published by the Government of Nagaland. Since, despite being appointed against a sanctioned post, the petitioner's name was not shown in the said lists, she submitted representation to include her name in the said genuine list and to allow her continue with her service. Thereafter, the Government published lists of bogus appointees and absentees and the said lists also did not include the petitioner's name.

4. Admittedly, after verification regarding bogus appointments, the Government published eight lists showing the names of genuine appointees and lists of bogus appointees and absentees. According to the petitioner, as her name was not shown in the lists of bogus appointees and absentees and she being appointed against a sanctioned post, her name should have been shown in the lists of genuine appointees and accordingly she ought to have been allowed to continue with her service. Being aggrieved, the petitioner has come up with this writ petition, seeking directions for consideration of her case with all consequential benefits.

5, Mr. Iralu, learned counsel, appearing for the petitioner, taking me through the petitioner's appointment letter, the transfer order as well as the lists of genuine appointees, has submitted that, as the petitioner's name has not been shown in the list of absentees as well as in the list of bogus appointees, she is entitled to continue with her service. It is also submitted by the learned counsel, that the petitioner being appointed against a sanctioned post followed by transfer order, was deprived from the service benefit for no fault on her part and that absence of her name in the lists of bogus appointees, clearly indicates that there was no irregularity in respect of her appointment. The learned counsel, referring to the letter Nos. GM/REC/03/15/092000/, dated 26.04.2001, issued by the Head Teacher, GMS, Kangching, by which the said Head Teacher had recommended the case of the petitioner for consideration by the Higher authority, has submitted that the petitioner is entitled to be included in the list of genuine appointees.

6. Mr. N. M. Jamir, learned Govt. Advocate, drawing my attention to the affidavit in opposition, filed by the State respondents, has submitted, that after due enquiry, it has been noticed that the petitioner's appointment was not processed through file in the Office and that there was no record of issuing appointment letter in favour of the petitioner.

7. Having heard the learned counsel for both the parties and perusing the materials on record, it appears that the petitioner was initially appointed as Knitting Instructor, in 2001 and, thereafter, on 03.07.2003, she was transferred to GMS, Yongyah from GMS, Kangching vice Smti H. Tongyung Phom. Admittedly, the name of the petitioner has not been shown in the lists of genuine appointees, bogus appointees and in the list of absentees. If the petitioner's appointment was not made as per procedure, or if her appointment was found to be a bogus one, her name should have been shown in the said list of bogus appointees.

Noninclusion of the petitioner's name in any one of the said lists indicates that she did not belong to any one of the said three categories. This proposition can't be accepted as correct. Therefore, a definite finding regarding appointment of the petitioner is required to be rendered on the basis of an enquiry.

8. In view of the above, as agreed to be by the learned counsel for both the parties, it would be appropriate to cause an enquiry to ascertain as to whether the petitioner was genuinely appointed or not and her name should be reflected in the appropriate list on the basis of such enquiry.

9. Accordingly, the Commissioner & Secretary, Department of School Education, Govt. of Nagaland, Kohima is directed to cause an enquiry regarding the appointment of the petitioner and issue necessary order/notification in this regard on the basis of the said enquiry. This process be completed within a period of 6(six) months from today. It is needless to mention here that, if the appointment of the petitioner is found to be genuine, her name should be shown in the list of genuine appointees and all consequential benefits, as per rule, be granted accordingly.

10. With the aforesaid directions, this writ petition is disposed of.