
(2016) 12 GAU CK 0050
In the Gauhati High Court
Case No : W.P. (C) No. 3905 of 2011

Manik Boro

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision : 21-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 GauLT 526

Hon'ble Judges : Mr. Achintya Malla Bujor Barua, J.

Bench : Single Bench

Advocate : None appeared, for the Petitioner; Shri A. Deka, SC, Education Department and Ms. K.M. Talukdar, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Achintya Malla Bujor Barua, J. (Oral)—None appears for the petitioner when the matter is called upon for hearing. Shri A. Deka, learned counsel appears for respondent Nos.1, 2, 5 and 6 and Ms. K.M. Talukdar for respondent Nos.3 and 4. None appears for respondent No.7.

2. It is the case of the petitioners that pursuant to an advertisement dated 01.11.1997 published under the signature of the Deputy Inspector of Schools, Mangaldai for filling up the vacant posts of L.P. school teachers under the Mangaldai Sub-Division, the petitioners had submitted their application along with other necessary testimonials. Accordingly, the petitioners were allotted serial Nos.46, 49, 51 and 124 and they appeared in the test and interview held by the respondent authorities. After interview held on 26.05.1998 by the Mangaldai Sub-Divisional Level Advisory Board, under BAC, the names of the petitioners were approved by the said Advisory Board by its resolution No.9. Accordingly, the petitioners were appointed in L.P. school along with other selected candidates.

3. Since being so appointed, the petitioners have been discharging their duties

regularly and efficiently without any complaint from any quarter and without any break. As per the appointment order of the petitioners, the petitioners are entitled to the payment of salary amounting to Rs. 1800/- per month. It is the further case of the petitioner that while they have been discharging their duties, the Director of Education, BTC by a show-cause notice dated 04.09.2007 asked the petitioners to show-cause as to why their services should not be terminated. It is the further case of the petitioner that pursuant to the said show-cause notice, the petitioners had duly replied to the show cause notice that the petitioners were appointed as primary school teacher in 1999 by the then Deputy Inspector of School's Mangaldai as per Rules and as such, they should not be terminated from service.

4. Be that as it may, by the impugned order dated 21.11.2007, the service of the petitioners was terminated. In the impugned order of termination dated 21.11.2007, it has been stated that there was no approval of the EBAC/BTC in respect of the appointment of the petitioner and the petitioners were not selected by any interview board constituted as per the procedure and there was no advertisement and there was no approval/signature from the State Level Enquiry Committee, SIU (Finance Department) of the Govt. of Assam.

5. It is the case of the petitioner that the aforesaid action in the impugned order of termination is incorrect and contrary to the records inasmuch as, that it is the case of the petitioner that the petitioner was appointed through a selection process pursuant to advertisement dated 01.11.1997.

6. Be that as it may, Shri Deka, learned counsel for Education Department has brought to the notice of the Court a judgment and order dated 06.02.2015 of the Division Bench of this Court in WA No.182/2013. In the said judgment and order of the Division Bench, it has been recorded that the BTC as well as the Govt. of Assam had taken decision to regularise all those teachers who were in service and were regularly receiving their salaries up to 17.10.2006.

7. In the aforesaid petition also, it was the case of the appellant that termination orders were issued against them by the Director of BTC in violation of the principals of the natural justice. Being so situated, in the present case also, the petitioners having been terminated from service, by the impugned termination order issued by the Director of Education, BTC, factual basis of the case of the petitioner as well as that of the appellant in the said WA No.182/2003 are same.

8. In the said judgment and order dated 06.02.2015, the Division Bench had also taken note off, that the appellants therein were similarly placed and that they are also receiving similar treatments as regards the decision taken by the BTC and the Govt. of Assam to regularise all those teachers who were in service, and were regularly receiving salary up to 17.10.2006.

9. In such view of the matter, it is the considered view of this Court that the present petitioners also being similarly situated is also entitled to the benefit of the decision taken by the BTC as well as the Govt. of Assam.

10. In the aforesaid judgment and order dated 06.02.2015, the division bench of this Court had disposed of the writ appeal with a direction to the respondent therein to effect regularisation as per the policy decision to all those eligible teachers who were regularly receiving their salary up to 17.10.2006.

11. In such view of the matter, the writ petition is disposed of with a direction that the respondent authorities in the Education Department, BTC would examine the case of the petitioners, to determine, as to whether the petitioners were regularly receiving their salary up to 17.10.2006. If, in the event, the authorities come to a conclusion that the petitioners were receiving their salary up to 17.10.2006, service of the petitioners be regularised in the same terms as provided in the judgment and order dated 06.02.2015 of the Education department of this Court in WA No.182/2013.

12. In terms of the above, the writ petition is disposed of.

13. As none appears on behalf of the petitioner, the registry is directed that a copy of this order be communicated to the petitioner directly.