

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

JUDGEMENT AND ORDER (ORAL)

Sharma, J

Heard Mr. B.D. Das, learned senior counsel assisted by Mr. H.K. Sharma, learned counsel for the petitioners as well as Mr. P.N. Goswami, learned Standing Counsel, Education.

2. The petitioners are aggrieved by order dated 7.6.2011 by which their services as subject teacher in Zoology have been terminated. As the order reflects, such a course of action was adopted pursuant to the Division Bench judgement and order dated 06.08.2010 passed in PIL No. 14/2010 (in WP(C) No. 3178/2008). The said proceeding was in respect of a selection for appointment of subject teachers in different subjects throughout the State of Assam including that of Zoology for which an advertisement was issued on 22.6.1992. Thereafter, a selection was conducted in 1995 and the select list was published on 12.10.1995.

3. In the aforesaid proceeding, the Division Bench detected irregularities / anomalies in the matter of appointment to the said posts of subject teacher, Zoology. It appears that an enquiry was conducted by the SIT pursuant to the direction of this Court.

4. By the said judgement and order, provision was made for providing opportunities to the teachers who were likely to be terminated from their services. Accordingly, identical show cause notices have been issued to such appointees asking them to respond to the same. In the instant case, according to the petitioners, they were not served with any such notice. The notice is dated 10.5.2011. However, they were directed over telephone by the Inspector of Schools on 17.5.2011 to appear in the Office of the Director, Secondary Education, Assam on 19.5.2011.

5. On receipt of the said telephonic instruction, the petitioners appeared in the Office of the Director of Secondary Education, Assam. In paragraph 5, 6 & 7 of the writ petition, the petitioners have contended that upon appearance in the said Office, they had prayed for the copy of the show cause notice but they were not given access to the same. According to the petitioners, upon appearance in the office, an office staff asked them to write down the history of their appointments, which they accordingly did. However, no reply was extracted from them in respect of the show cause notice.

6. As per the direction of the Division Bench, the petitioners were required to be issued with the show cause notice enabling them to submit reply thereof. If the petitioners were not given the said opportunity to have their say in respect of the said show cause notice, on that ground alone, the impugned order of termination of service dated 7.6.2011, is liable to be interfered with. Be it stated here that the said order of termination was issued to the teachers whose services were terminated. Like that of the show cause notices, the impugned order of termination is also identically worded. All these aspects of the matters have been discussed in the judgement and order dated 6.2.2012 passed in WP(C) No. 4573/2011 (Deepali Bora Vs. State of Assam & Ors).

7. As in the instant case, in the said case also, the petitioners were not served with any notice and considering that there was violation of principles of natural justice, the impugned order of termination was set aside granting liberty to the respondents to proceed afresh in the matter, if they are so advised.

8. In view of the above, the impugned orders of termination dated 7.6.2011

stand set aside and quashed. The petitioners shall be reinstated in service with continuity thereof and with all consequential benefits. However, it will be open for the respondents to proceed with the matter in accordance with law, if they are so advised.

9. Writ petition is allowed to the extent indicated above, without however, any order as to costs.