

**Serial No. 25**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 133 of 2017  
With MC[WP(C)] No. 86 of 2017

Date of Decision: 27.09.2018

Smti. Sutapa Choudhury Vs. State of Meghalaya & Ors

**Coram:**

**Hon'ble Mr. Justice S.R. Sen, Judge (Oral)**

**Appearance:**

For the Petitioner(s) : Mr. K.C. Gautam, Adv.  
For the Respondent(s) : Mrs. S. Bhattacharjee, GA. (For R 1-3)  
Mr. H.L. Shangreiso, Adv. (For R 4-6)

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|-----|--|--------|
| i)  | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press:           | Yes/No |

1. Heard Mr. K.C. Gautam, learned counsel appearing on behalf of the petitioner as well as Mrs. S. Bhattacharjee, learned GA appearing on behalf of the respondent No. 1-3 and Mr. H.L. Shangreiso, learned counsel appearing on behalf of the respondent No. 4-6.

2. The brief fact of the petitioner's case in a nutshell is that:

*"The petitioner is before your Lordships being aggrieved by the action of the respondent Managing Committee of the Smit Secondary School in not allowing the petitioner to resume/join her teaching duties after expiry of medical leave and having been certified by the Doctor as "fit to resume duties".*

*The petitioner is by profession a teacher, teaching in the secondary section of the Smit Secondary School, Smit, East Khasi Hills District Meghalaya. The petitioner has been teaching Mathematics in the said school for the past 21(twenty one) years. The petitioner is suffering from a medical condition commonly referred to as flat feet or Tendonitis of the feet. Flat feet are a postural deformity in which the arches of the feet collapse and the feet come in total contact with the ground. It is a*

*medical condition where at birth or after a certain age the arch of the feet collapses due to splitting of the tendons. The medical condition requires the patient to work with special shoes and to rest the feet for a certain period of time. Tendonitis cannot be completely cured but is no obstacle for discharge of daily duties.*

*The petitioner vide her letter dated 15<sup>th</sup> September 2016 went on medical leave. After expiry of medical leave the respondent Managing Committee did not allow the petitioner to join service and resume teaching duties. The Managing Committee appointed an officiating teacher whose salary was paid out of the salary of the petitioner since the month of October 2016. The petitioner thereafter filed a representation before the District School Education Officer, highlighting her grievance. The Managing Committee responded by issuing notices to the petitioner demanding her to withdraw her representation failing which stringent consequences would follow. The petitioner thereafter on assurance of the Managing Committee withdrew her representation. The respondent No. 5 despite withdrawal of the letter/representation by the petitioner refused to let the petitioner join/resume teaching duties. The petitioner has been subject to harassment and discrimination by the Managing Committee who have most illegally prevented the petitioner from joining her duties.*

*Being aggrieved by the harassment and discrimination meted out to her the petitioner is before your Lordships for protecting of her fundamental and legal rights.”*

3. The learned counsel appearing on behalf of the petitioner submits that the petitioner is a teacher of Smit Higher Secondary School in the State of Meghalaya and she was serving in the school for the last 21(twenty one) years, but as she was suffering from chronic injury Arch of foot, she had to undergo treatment and when she returned back, she was not allowed to join the school by the Managing authority of the school.

4. The learned GA appearing on behalf of the respondent No. 1-3 submits that it is a fact that the petitioner was in a confirmed post and serving as a teacher for a long time since the year 1996 and the Government has no objection for her joining in the school.

5. On contra, the learned counsel appearing on behalf of the respondent No. 4-6 submits that they are ready to accept the petitioner, but a direction should be given that she should perform her duties properly.

6. After hearing the submissions advanced by the learned counsel for the parties, I am really surprised as to why the Managing Committee of the School behaved indifferent towards the petitioner who is a teacher of their school, besides that she is unwell. Every human being has got the right to go for medical treatment and there is nothing wrong in it. After 21(twenty one) years of serving in the said school, they cannot say that her performance as a teacher is not good, rather I am of the considered view that the Managing Committee as well as the Principal of the school should be more sympathetic to her and to adjust her duties as per her convenience, considering her ill health and given 21(twenty one) years of service to the school.

7. It also came to the notice of the Court that the Managing Committee of the school deducted Rs. 25,000/- (Rupees twenty five thousand) only from the salary of the petitioner on the ground that since she has not joined the school, a substituted teacher has been appointed in her place, which is highly improper.

8. I hereby direct the Managing Committee of the school to allow the petitioner to resume her duty immediately without any further delay and to return her entire salary deducted which she is entitled, even during the time when she was on leave.

9. In my opinion, it is a fit case that a cost should be imposed upon the School Managing Committee for their egoistic inhuman approach, however since it is a school; I am not putting any cost at this moment.

10. The School Managing Committee is directed to comply this order immediately.

11. With this observation and direction the petition is allowed and stands disposed of.

**(S.R. Sen)**  
**Judge**

Meghalaya  
27.09.2018  
"D. Nary, PS"

