

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 283 of 2017

Date of Decision: 29.04.2019

Misthina K Sangma

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. R. Kar. Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. Sr. GA

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

ORAL

1) The brief facts of the case are that the petitioner was appointed as teacher under the Kasturba Gandhi Balika Vidyalaya (KGBV) Scheme to impart quality education to female children of the backward societies, by order dated 28th March, 2012 as full time Hindi teacher after qualifying in the interview. It is further the case of the petitioner that at the time of appointment the salary was fixed at Rs. 10,000/- p.m. and the same was paid to her from the period of appointment till the month of July, 2015. But without any reason the same was discontinued and she was paid only Rs. 5,000/- till June, 2016 when her contract vide the impugned order dated 1st June, 2016 was terminated.

2) Being aggrieved with the reduction of salary and termination of the contract the petitioner is here before this Court by way of the instant writ petition.

3) I have heard learned counsel for the petitioner and for respondent No. 1 and 2. There is no representation on behalf of the Respondent No. 3 in spite of service of notice on 28.12.2017 as stated in the affidavit of service dated 14. 03. 2018. As such the matter is heard ex parte as against the Respondent No.3.

4) Mr. R. Kar, learned counsel for the petitioner submits that though the appointment is on the contract basis for a period of 1(one) year but the services of the petitioner had been continued till 1st June, 2016 when she was terminated. He submits that apart from the illegal reduction of her salary to only Rs. 5000/- per month by the Respondent No. 3, the Respondent No. 2 on misconception about the applicability of the provision of KGBV revised Guidelines had discontinued the services of the writ petitioner. He further submits that the affidavit of the State respondents clearly reflects the facts regarding the misconception of the respondent No. 2 with regard to the provision of the revised Guidelines 2014-15. As such, he prays that the petitioner be allowed the salary that was being withheld for the period w.e.f. July 2015 to June, 2016 and also that the impugned order of termination be set aside and quashed.

5) Mr. H. Kharmih, learned Addl. Sr. GA on behalf of the respondents No. 1 & 2 also candidly submits that there had been some error in the appreciation of the provisions of the prevailing Guidelines by the respondent No. 2 and has further drawn the attention of this Court to the categorical averments made in Para-10 of the affidavit-in-opposition. The same is quoted herein below:-

“10. That the averment made at paragraph 15 of the petition the answering respondent beg to state that the order No. EGH/DMC/PL/APT/05/2015/156, dated 1st June, 2016 issued by the DMC, SSA, East Garo Hills whereby it is stated that the petitioner’s service is not renewed based on the provisions as given in the KGBV revised guidelines 2014-15 is unacceptable due to the fact that this guidelines are in the

form of draft and yet to be notified by the competent authority. As stated earlier, KGBV revised guidelines 2014-15 is a draft prepared by the Office of the State Project Director, State Education Commission Authority of Meghalaya (SEMAM), SSA which was circulated to the district officials during a review meeting of SSA with a request to submit views & comments on it. The same is not yet notified and hence is not approved guidelines. As such, action whatsoever as per this guidelines is not acceptable. From Government of India in 2014-15 there was change in the financial norms only.”

6) On examination of the materials on records and after hearing the submissions of learned counsel for the parties, it is clear especially from the contents of paragraph 10 of the counter affidavit that the order under challenge had been passed on a clear misconception of the applicability of the Guidelines. The petitioner's service as is apparent from the impugned order was not renewed by the respondent No. 2, by relying on the revised Guidelines which were not even notified by the competent authority and which were in still the form of a draft.

7) With regard to the withholding of the salary, it is also clear from the appointment order dated 28th March, 2012 that a fixed salary was payable which then was Rs. 10,000/- p.m. which has since been enhanced to Rs. 20,000/- p.m. from 2015-16. All the teachers of KGBV of all the districts are paid salary Rs. 20,000/- p.m. as per the directions of the District Mission Coordinator. This fact is also substantiated by Para-7 of the affidavit filed by the State respondents where it has been clearly stated that the salary of the full time teacher of KGBV had been raised to Rs. 20,000/- per month since 2015-2016.

8) As such, apart from the termination of contract of service, the non-payment of full salary due to the petitioner is also illegal, inasmuch as, for the services rendered, the petitioner is entitled to receive her full salary.

9) In view of the circumstances as afore stated and the pointed admissions from the State respondents, this writ petition is disposed of with the following directions:-

- i) The respondent No. 2 shall immediately reconsider the case of the petitioner for re-appointment as full time Hindi teacher in St. Francis School KGBV Songsak Centre, East Garo Hills District, Songsak within a period of 1(one) month on receipt of the certified copy of this order.
- ii) The petitioner shall be entitled to arrear salary for the period w.e.f. July, 2015 to June, 2016 at the prevailing rate of Rs. 20,000/- p.m. less Rs. 5,000/- per month paid for the corresponding period which she had already availed. The Respondent No. 3 shall ensure that the arrear amount shall be made over to the writ petitioner within a period of 1(one) month on receipt of the certified copy of this order.
- 10) With the above noted directions, this writ petition is allowed and disposed of.



JUDGE

Meghalaya
29.04.2019
"V. Lyndem PS"