

GAHC040017912023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/643/2023

Smti Yatop Hangkar
aged about 39 years, W/o: Babin Giba,
R/o: Hayuliang Khupa, Anjaw,
Arunachal Pradesh- 792104.

VERSUS

The State of AP and 3 Others

Advocate for the Petitioner : T. Garam.

Advocate for the Respondent : Taba Tagum

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 22.12.2023

Heard Mr. T. Garam, learned counsel for the petitioner. Also heard Mr. T. Tagum, learned standing counsel for the Education Department representing the respondents no. 2 to 7.

By filing this writ petition, the petitioner has challenged the termination

order No. EED-12015/05/2023, dated 16.11.2023 passed by the Commissioner (Education), Government of Arunachal Pradesh, whereby, the petitioner has been terminated from her service as Primary Teacher (PRT) on being found to have been appointed illegally as no appointment order was issued by the Directorate of Elementary Education.

Mr. T. Garam, learned counsel for the petitioner submits that the appointment of the petitioner was in consonance with the Rules regulating appointment on compassionate ground. The petitioner was appointed on compassionate ground vide order No. 1404/20/90 ESTT.(D), dated 09.12.1993. Mr. Garam submits that the termination order has been issued by the Commissioner (Education), who, does not have the power and authority to terminate the petitioner. He further submits that since the petitioner is a temporary employee in the Department of Education, the termination on the alleged forging of appointment order is in violation of the clauses provided under the compassionate scheme of the State Government and also the provisions of CCS & CCA Rule, 1965. Therefore, he submits that while issuing notice, the termination order, dated 16.11.2023 be stayed.

On the other hand, Mr. T. Tagum, learned Standing Counsel for the Education Department by referring to the judgment of Hon'ble Supreme Court in the case of Punjab Urban Planning and Development Authority & Anr. V. Karamjit Singh, reported in (2019) 16 SCC 782, submits that since the appointment of the petitioner is found to be illegal, there is no question of violation of CCS & CCA Rules, 1965 or Article 311 of Constitution of India.

Issue notice to the respondents, returnable in 4(four) weeks.

Since Mr. T. Tagum, learned Standing Counsel, has entered appearance and accepted notice on behalf of all the State respondents, no formal notice is required to be sent. However, requisite extra copies of the petition be furnished to him during the course of the day.

List the matter after (four)weeks.

JUDGE

Comparing Assistant