

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)**

WP (C) 467 (AP) 2016

1. Smti. Nateng Tagi & 3 Ors.

...petitioners.

-Vs-

2. *The State of Arunachal Pradesh & 7 Ors.*

.....Respondents.

WP (C) 500 (AP) 2015

1. Smti. Nateng Tagi & 5 Ors.

...petitioners.

-Vs-

2. *The State of Arunachal Pradesh & 3 Ors.*

.....Respondents.

For the petitioners : Mr. L. Perme, Advocate.

For the respondents : Ms. A. Mize, Addl. Sr. Govt. Adv.

Date of hearing : **15.06.2017.**

Date of Judgment and Order : **15.06.2017.**

**BEFORE
HON'BLE MR. JUSTICE SUMAN SHYAM**

JUDGMENT & ORDER (ORAL)

Heard Mr. L. Perme, learned counsel appearing for the petitioner.
Also heard Ms. A. Mize, learned Addl. Sr. Govt. Advocate appearing on behalf
of the official respondents. None appears for the private respondents.

2]. This 2 (two) writ petitions are founded on identical facts, raising similar question of law and therefore, I propose to dispose of the same by this common judgment and order.

3]. The petitioners herein, were appointed as Anganwadi Workers and posted under the Child Development Project Officer (for short, CDPO), in the Siang District in the Riga and Pangin, ICDS Project. Their appointments were made on different dates between the year 2000 & 2006. While working as Anganwadi Worker under the aforesaid ICDS Project, the services of the petitioners were terminated by issuing separate orders of termination on the ground that there were complaints received from the Panchayat leaders of the Kebang that they were not performing their duties since the time of their appointment as Anganwadi Workers. On the basis of such allegation the services of the writ petitioners have been abruptly terminated by issuing identical orders of termination on different dates. Being aggrieved by the orders of termination of their services, the petitioners have approached this Court by filing WP (C) 500 (AP) 2015.

4]. The vacancies arising as a result of terminations of the petitioner's service have apparently been filled up by issuing orders of appointment to fresh candidates i.e. the private respondents, herein. As such, the appointments of the private respondents in the resultant vacancies have been put to challenge by filing WP (C) 467 (AP) 2016.

5] By inviting the attention of this Court to the materials available on record, Mr. Perme submits that, although, the petitioners had been serving as Anganwadi Workers for a considerable length of time, their services have been terminated without issuing any Show-Cause notice thereby acting in flagrant violation of principles of natural justice. Mr. Perme further submits that materials on record would go to show that the Panchayat leaders of the Kebang, on the basis of whose alleged complaint, the services of the petitioners have been terminated, have written individual letters denying the fact that they had ever made any complaint against any of the petitioners. That apart, submits Mr. Perme, the respondent No. 3 i.e. Deputy Director, ICDS, Pasighat, East Siang District had himself conducted any enquiry and

written a letter dated 07.09.2015 intimating the respondent No. 2 i.e. the Director of Woman and Child Development Department, Govt. of Arunachal Pradesh, indicating that the allegation of complaint having been received against the Anganwadi Worker's of Riga ICDS Circle are all false and therefore, in a meeting held at Head Quarter of Riga ICDS Project, it had been agreed that the termination orders of Anganwadi Worker's would be revoked. However, Submits Mr. Perme, notwithstanding such categorical assurance of the Departmental authorities, no action has been taken to reinstate the petitioners back in service. On the contrary, the posts held by them have been filled up in a most arbitrary and illegal manner by appointing the private respondents.

6]. Ms. Mize, learned Addl. Sr. Govt. Advocate, Arunachal Pradesh submits that the petitioners were negligent about performing their duties ever since the time of their appointment and taking note of the said fact, the respondent No. 3 had issued orders directing them to appear. It is on the basis of such order that the services of the petitioners have been terminated.

7]. I have considered the rival submissions made at the bar and have also examined the materials available on record. It is not in dispute that the petitioners were appointed as Anganwadi Workers who had rendered service in the said posts for a considerable length of time. It is also not disputed that no show-cause notice was issued to any of the petitioners before terminating their services. Although, Ms. Mize has made an attempt to justify the action on the part of the respondents by placing reliance on the orders (Annexure-II series) filed along with the counter affidavit of the respondent No. 1, yet, from a perusal of the said orders, I find that the same were not show-cause notices, in that, no allegation was leveled therein asking the petitioners to show-cause. There is nothing on the record to even remotely indicate a cursory compliance of the principles of natural justice by the respondent authorities before issuing the impugned orders of termination. It is, therefore, evident that the services of the petitioner have been terminated in utter disregard to the principles of natural justice. As such, the orders of termination are not sustainable in the eye of law and are liable to be set aside.

8]. Coming to the next question of appointment of the private respondents in the resultant vacancies, it is noticed that the private respondents have been appointed without holding any regular selection process inasmuch as, it has not been disputed before this Court that their selection was not based on any open advertisement followed by a regular process of interview. Therefore, it is a case where one set of employees have been replaced by another without holding any regular selection process. Since the decision of the Supreme Court in the case of State of Haryana and Others-vs- Piara Singh and Others, reported in (1992) 4 SCC 118, the law is settled that such a recourse would not be permissible in the eye of law.

9]. For the reasons stated above, I do not have any hesitation in holding that the appointments of the private respondents in place of the petitioners, whose services have been terminated without adherence to the principles of natural justice, is also not sustainable in law and the same are also set aside and quashed.

10]. In the result, these writ petitions stand allowed.

11]. The respondents are directed to reinstate the petitioners as Anganwadi Worker's within a period of 2 weeks from the date of receipt of copy of this order. It would, however, be open for the respondents to initiate regular process of enquiry as per law in the event, the petitioners are found to have committed any mis-conduct while discharging their official duties.

With the above observation, this writ petition stands disposed of.

No order as to cost.

JUDGE

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