

All Manipur Regular Posts Vacancies ... vs State Of Manipur on 23 October, 1990

Equivalent citations: AIR1991SC2088, 1991LABLC2118, 1991SUPP(2)SCC643, AIR 1991 SUPREME COURT 2088, 1991 LAB. I. C. 2118, 1991 (2) SCC(SUPP) 643, 1992 SCC (L&S) 122, (1992) 1 PAT LJR 23, (1992) 1 APLJ 8

Bench: K. Jagannatha Shetty Shetty, A.M. Ahmadi

JUDGMENT

1. Special Leave granted. Intervenor's application filed in Special Leave Petition No. 6121 of 1990 is also allowed.

2. This appeal concerns with the problem of regularisation of substituted/ad hoc teachers in the Education Department of the State of Manipur. They have been in service for the past several years. The State Government however has refused to regularise their services, instead they took steps for direct recruitment. The services of the members of the appellants' association were also sought to be terminated. Thereupon the appellants moved the High Court for relief under Article 226 for staying the direct recruitment and also seeking a direction to regularise their services. The High Court issued a rule nisi in the writ petition but refused to grant any interim relief.

3. This appeal has been preferred against the order of the High Court denying the interim relief to the appellants. During the pendency of this appeal, there were some more writ petitions filed before the High Court. In one of those cases, the High Court has directed the D.P.C. to publish the result of the direct recruitment, and in another case, it appears that the High Court has issued an order staying the direct recruitment.

4. It is said that there are more than one thousand substituted teachers who have been recruited from 1981-82. It appears that they were allowed to appear before the D.P.C. for direct recruitment and in that process 23 of them were selected by the D.P.C. for direct recruitment, but they could not also be regularly appointed in view of the stay order of the High Court.

5. If the direct recruitment takes place on one hand and substituted teachers are also directed to be regularised subsequently, it would create an enormous problem for the department to accommodate both the categories of persons. Taking all these factors into consideration, this Court made an order dated 2nd May 1990 directing the State Government to consider the case of regularisation of the appellants before making direct recruitment. But the Government did not take any action. On 9th October, 1990 the Court made a further order to implement the, order dated 2nd May 1990 within two weeks from that date failing which the Secretary, Education Department should be present personally for facing contempt proceedings. Pursuant thereto, the Secretary of Education is personally present before us today.

6. Mr. Venugopal, learned Senior Advocate appeared for the State. He also explained the genesis of the case and the problem of the Department for regularising the services of all the substituted teachers. Having heard counsel on both sides, it appears to as that it is necessary to make the following order to avoid further litigation and also to avoid seemingly conflicting interim orders issued by the High Court.

1. All substituted/ad hoc teachers who have put in five years of service or more as on October 1, 1990 shall be regularised without pay D.P.C. This regularisation would be subject to their possessing the required qualifications at the time of their initial appointment.

2. The substituted/ad hoc teachers who have rendered less than five years of service as on October 1, 1990 shall be allowed to appear before the D.P.C. for selection. The D.P.C. shall be constituted exclusively for them within three months from today. Those who are selected by the D.P.C. shall be regularised immediately thereafter.

3. Twenty three substituted/ad hoc teachers who have been already selected by the D.P.C. shall be regularly appointed forthwith retaining their present seniority.

4. All the substituted/ad hoc teachers who are in service as on today shall be allowed to continue in service till the D.P.C. declares its result of the selection. The services of those who do not appear before D.P.C. or could not be selected by the D.P.C. could be terminated unless their services are required for a further period.

5. It is said that the D.P.C. earlier convened has selected some persons for direct recruitment. If there are additional vacancies in addition to those which are being occupied by the substituted/ad hoc teachers, they may straightway be appointed against those vacancies and the remaining if any may be appointed after the D.P.C. completes the, process of selection of substituted/ ad hoc teachers for regularisation depending upon the vacancy position.

6. As to the seniority between the direct recruits and the regularised candidates, we make it clear that the direct recruits other than those mentioned in Para (3) above, shall be ranked below all the regularised candidates.

7. This order shall govern all those who are in service as substituted/ad hoc teachers. It shall also govern all pending litigations before the High Court or any other Tribunal. The concerned parties shall move the High Court or the Tribunal to dispose of the pending litigations accordingly.