

6:2: Appointment/ Confirmation/ Termination etc.

- (ix) Withdrawal of termination from service and re-instatement in respect of Dr.R.Lalthangliana as Lecturer, Department of Sociology.

Dr. R. Lalthangliana was granted permission to contest the M.P. election to be held in February, 1998 subject to the condition that the period of membership of Parliament is for 1 year upto 31.3.99. He requested for extension of leave from 1.4.99 for a period of 5 years but was regretted by the University vide letter dated 26.3.99 and was requested to resume duties by 1.4.99. As he failed to resume duties, the matter was placed to the Executive Council and the Executive Council vide resolution No.EC:103:99:6:2(vi) decided unanimously to terminate the services of Dr.R. Lalthangliana for having failed to report for duty on 1.4.99 on expiry of Extra-Ordinary Leave and completion of 10 years as M.L.A. in view of the addendum clause 3(iii) of NEHU RE-6. Accordingly, his services was terminated. Dr.R.Lalthangliana has in his representation (Annexure-I) requested to review and revoke the impugned termination Order on 10.8.99 on the ground that the addendum to clause 3(iii) of RE-6 has been repealed maintaining status quo as on November, 1997 and requested for E.O.L. with effect from 1.4.99. In this connection, it may be mentioned that Shri S.L. Marbaniang, Lecturer, Department of Mathematics who had earlier proceeded on voluntary retirement due to the addendum to Clause 3(iii) of RE-6 as there was no scope of permitting him to contest election during his service has now been reinstated in service on account of the repellent of the above said clause. There is no maximum numbers of E.O.L. that can be granted to elected members of Parliament/Assembly etc. with the withdrawal of addendum to Clause 3(iii) of RE-6. However, under provision of clause 3(F General) of Ordinance OE-6 a selected teacher as MP/MLA/MDC are granted E.O.L. for 5 years. In this instant case, Dr.R.Lalthangliana joined the post of Lecturer in P.U.C. on 19.4.85 and proceeded on leave on 1.4.89 till his termination on 1.4.99.

The matter is placed before the Council for decision.

6:2:9 (2)

ANNEXURE - I

PACHHUNGA UNIVERSITY COLLEGE  
AIZAWL - 796001 :MIZORAM.

No.PUC/PF(TS)/89/5009

Dated the 19th Feb' 2001.

To,

The Vice-Chancellor,  
NEHU, Shillong.

Subj: Re-consideration of Dr.R.Lalthanglian's Representation  
against his termination order.

Sir,

This has a reference to Dr.R.Lalthanglian's representation which explained certain anomalies in connection with his termination in the event of being elected member of Mizoram Legislative Assembly under E.C. Resolution as notified vide your number. Conf/ORD/86/535 dt. 18.12.97.

In this connection, it may be noted here that Dr.R.Lalthangliana was first elected MLA Mizoram on 1.4.89. As pointed by him in his representation the E.C. Resolution of NEHU dt. 18.12.97 does not spelt out the effective date and converage period whereby the order will be with immediate effect or covering the previous incumbent teachers who enjoyed such leave/facilities prior to this E.C. Resolution.

His representation which is self explanatory is forwarded for your necessary action.

Yours faithfully

Sd/-

(DR.C.THANTHIANGA)  
Principal Pachhunga University  
College, Aizawl, Mizoram.

To

The Vice-Chancellor,  
North-Eastern Hill University,  
NEHU Campus, Shillong-793022.

Through : The Principal, Pachhunga University College, Aizawl.

Subj : Representation against impugned order of termination Dated 10.8.99 and against refusal to allow past-service Benefits by the letter dt.13.02.2000 of the Deputy Registrar (Estt.II), in r/o Dr.R.Lalthangliana of Pachhunga University College, Aizawl.

Ref : 1) Order of Termination from service communicated by Deputy Registrar, NEHU, Shillong, Vice/No.F.15-56/Estt.II/86/902 dt.10.8.99.  
2) Deputy Registrar (Estt.II), NEHU, Shillong's letter No.F.15-56/Estt.II/86-1794 dt.3.2.2000.  
3) Executive Council's decision, relating to clause 3(iii) to Regulation 6, to maintain status quo vide/ their meeting minutes dt.13.7.2000.

Sir,

With reference to above, I have the honour to bring to your kind notice that neither the order dt.10.8.99 terminating services of the undersigned by the Vice-Chancellor was based on proper facts and in due appreciation of the legal requirement as contained in the NorthEastern Hill University Act, 1973 read with the First statute, nor the order dt.3.2.2000 refusing service-benefits etc. to the undersigned was in the spirit of the said Act, Statutes, Fundamental Rules and Central Civil Services (Pension) Rules, 1972 as applicable to the employees of NEHU.

2. Statute 27 made under sec.25(1) of the said Act clearly says:

"(2) Notwithstanding anything contained in the terms of his contract of service or his appointment, the Executive Council shall be entitled to remove a teacher or a member of the academic staff on the ground of misconduct.

(3) Save as aforesaid, the Executive Council shall not be entitled to remove a teacher or a member of the academic staff except for good cause and after giving three months' notice in writing or on payment of three months' salary in lieu of notice.

(4) No teacher or a member of the academic staff shall be removed under clause(2) or clause(3) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. \*\*\*\* "

However, nowhere in the order dt.10.8.99, it has been mentioned whether the impugned termination from service was made under clause(2) or clause(3) of Statute 27. Whatever it might be, as per clause(4) of the Statute 27, the undersigned was entitled to be given reasonable opportunity of showing cause against the action proposed to be taken against him. Merely on this ground, the impugned termination order dt.10.8.99 is illegal and void.

3. Failure to resume duties by the undersigned on 01.04.1999 was obviously due to his continuance as a sitting M.L.A., and resulted in unauthorised or wilful absence at the best, and should have been dealt in consonance with F.R.17A and 18 read with F.R.5A and Rules 27 and 28 of the C.C.S.(Pension) rules and the Govt. of India's Decisions in connection with those Rules. Any penalty on the ground of unauthorised absence or wilful absence is required to be proceeded by an opportunity to be absentee-employee to show cause and to be heard. Unfortunately, if this was the ground of my termination, then I was not given any opportunity to show cause and to be heard, before issuing the impugned order of termination. On this score too, the impugned order of termination was illegal and in violation of the principles of natural justice and standing orders and rules of the Govt. of India, as adopted by NEHU for its employees.

4. The alleged absence from duty from 01.4.99 on the part of the undersigned was in continuation of the authorised leave i.e. E.O.L. granted by the NEHU. This being the case, it is the settled position that any wilful absence from duty, even though not covered by grant of leave, does not entail the loss of lien. Even a temporary employee is entitled to lien. It has since been decided and clarified by the Govt. of India that a period of absence not covered by grant of leave shall have to be treated as 'dies non' for all purposes viz. increment, leave and pension. Only when such "absence with leave" stands singly and not in continuation of any authorised leave of absence, it will constitute an interruption of service for the purposes of pension, and unless the pension-sanctioning authority under Rule 27 of the CCS(Pension) Rules treats the same as leave without allowance, the entire past service would stand forfeited. This is not the case of the undersigned in ~~as~~ as much as the "absence without leave" from 01.04.99, if it was so at all, was in continuation of the authorised leave i.e. the E.O.L. From this point of view also, the impugned order dated 03.02.2000 does not stand the test of law and reasonableness.

5. I further like to state that if I am not mistaken, the Executive Council of the NEHU in its meeting held on 13.7.00 resolved that the status quo in respect of clause 3(iii) of Regulation RE-6 on the terms and conditions of service of teachers elected/nominated to Parliament/State Legislature/District Council, as on November, 1997, be maintained, and the University Grants Commission be approached about the latest guidelines on the matter. Therefore, the entire matter since November, 1997 now needs a review in the light of the UGC's latest guidelines. If that be so, then the impugned termination of service of the undersigned and the consequent refusal of service-benefits deserve to be reviewed and revoked.

I, therefore, request you to kindly treat this as an appeal and to place the same before the Executive Council for kind consideration and review ; Otherwise, I may be compelled to approach to the competent court of law or Tribunal for appropriate redress.

Yours faithfully,

sd/-

( DR. R.LALTHANGLIANA )

Copy to : Pro-Vice-Chancellor, North-Eastern Hill University, Mizoram Campus, Aizawl for favour of necessary action.

## (vii) Resignation from Headship of Deptt. of Education.

EC:109:2001:6:2:(vii): The Council considered the resignation of Prof. MS Padma as Head, Department of Education and while accepting the same RESOLVED that Prof. PK Ganguly may be appointed as Head for a period of three years.

## (viii) Resignation from Headship, Department of Physics.

EC:109:2001:6:2:(viii): The Council considered the resignation of Prof. YST Rao as Head, Department of Physics and while accepting the same RESOLVED that Prof. MK Parida may be appointed as HOD for a period of three years.

## (ix) Withdrawal of termination from service and re-instatement in respect of Dr. R. Lalthangliana as Lecturer, Department of Sociology.

EC:109:2001:6:2:(ix): The Council considered the termination of service of Dr. Lalthangliana, Lecturer in Sociology at Pachhunga University College and RESOLVED that since Clause 3 (iii) of Regulation RE-6 has been repealed he may be re-instated.

**6:3- Leave / Deputation**

## (i) Study leave for one year in respect of Dr. Nirmalendu Saha, Reader, Department of Zoology, NEHU, Shillong.

EC:109:2001:6:3:(i): The Council considered the grant of study leave in respect of Dr. Nirmalendu Saha, Reader in Zoology for a period of one year w.e.f. 1.5.2001 to do research work at the Heinrich Heine University and RESOLVED to approve the same subject to recommendation of the School Board.

**6:6- Service Condition / Financial & other Benefits-**

## (i) Medical reimbursement in respect of Prof. AK Baruah, Department of Political Science.

EC:109:2001:6:6:(i): The Council considered the reimbursement in respect of Prof. AK Baruah and RESOLVED that the matter may be referred to a Committee consisting of the following:

1. Registrar
2. Finance Officer
3. Senior Medical Officer I/c.