

(2006) 01 GAU CK 0068
In the Gauhati High Court

Ahanthem Kunjo Singh

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 05-01-2006

Acts Referred:

Citation : (2006) 01 GAU CK 0068

Hon'ble Judges : T.Nanda kumar Singh, J

Bench : Single Bench

Advocate : N.Ibotombi Singh, Monomala Devi, Kh.Tarun kumar Singh,
Advocates appearing for Parties

Judgement

1. Heard Mr. Kh. Tarunkumar Singh, learned counsel and Ms. Monomala Devi, learned counsel appearing on behalf of the petitioner as well as Md. Jalal Uddin, learned G.A. appearing on behalf of the respondents 1, 2 and 3 and Mr. N. Ibotombi Singh, learned CGSC appearing for the respondent no.4, the Accountant General (A&E), Imphal, Manipur.

2. By this writ petition the petitioner is asking for a direction to the respondents to release/give the service pension and other retirement benefits to the petitioner with the interest of 18% per annum within a stipulated period.

3. The case of the petitioner is very short and simple. The petitioner was, having the requisite qualification for appointment to the post of Hindi Graduate Teacher, appointed as Hindi Graduate Teacher at Thenjang Jr. High School (West) under an order of the Director of Education (S), Govt. of Manipur being No.3/11/83ED (H) (Pt.I) dated 24th October, 1983 on ad hoc basis for a period of six months from the date of his joining duty in the school or till the post is filled up on regular basis whichever is earlier. In pursuance of the said appointment order dated 24.10.1983, the petitioner joined his service as Hindi Graduate Teacher at Thenjang Jr. High School (West). It is also said that the term of the ad hoc appointment of the petitioner as Hindi Graduate Teacher had been extended from time to time. The different extension orders for extending the terms of the ad

hoc appointment of the petitioner as Hindi Graduate Teacher are available at AnnexuresA/2 to A/7 in the present writ petition. It is the admitted case of both the parties that in pursuance of the office memorandum dated 31.5.1986 issued by the Department of Personal and Administrative Reforms (Personal Division), Govt. of Manipur and subject to satisfactory verification of character, antecedent and physical fitness, the petitioner and others were appointed on regular basis as Hindi Graduate Teacher under the orders of the Director of Education(S), Govt. of Manipur being No.9/32/86ED, dated 30th August, 1986. Later on vide an order of the Director of Education (S) being No.9/27/91ED (Pt) (I) dated 2nd March, 2004, the petitioner's ad hoc service as Hindi Graduate Teacher from 26.10.1983 to 23.5.1986 was regularized for pensionary and other service benefits, a copy of which is available at AnnexureA/11 to the writ petition. The learned counsels appearing for the petitioner by basing on the said order of the Director of Education (S), Govt. of Manipur dated 2.3.2004 strenuously submitted that the ad hoc services of the petitioner as Hindi Graduate Teacher should be counted for the purpose of pensionary and other retirement service benefits.

4. It is said that the petitioner retired from service under an order of the Director of Education(S), Govt. of Manipur dated 23.3.2004 w.e.f. 1.4.2004 (F.N). After the petitioner had retired from service under the said order of the Director of Education (S), Govt. of Manipur dated 23.3.2004, he approached the competent authority for payment of pensionary and other retirement benefits, but for the reasons best known to the respondents the petitioner is neither getting retirement benefits nor other financial benefits after his retirement w.e.f. 1.4.2004. Hence, having no alternative, the petitioner has approached this court by filing the present writ petition.

5. Mr. Kh. Tarunkumar Singh, learned counsel appearing for the petitioner submits that the pension is not the bounty or/ gratuitous payment of the employers. He further submits that the petitioner started earning his retirement/ service benefits with effect from date of his joining his service. Md. Jalal Uddin, learned G.A. appearing for the respondents submits that the nonfinalization for payment of the pensionary and other retirement benefits to the petitioner is because of the letter dated 9.2.2005 written by the Sr. Accounts Officer/Pension of the Office of the Sr. Dy. Accountant General (A&E), Manipur, Imphal to the Special Secretary (DP), Govt. of Manipur, a copy of the said letter of the Sr. Accounts Officer/Pension dated 9.2.2005 is available at AnnexureA/13 to the present writ petition. For easy reference, the said letter of the Sr. Accounts Officer/Pension dated 9.2.2005 is quoted below in entirety:

OFFICE OF THE SR..DY. ACCOUNTANT GENERAL (A&E)

MANIPUR::IMPHAL.

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No.Pen/6217/VoltEdn(S)/2004/ Dt.9.2.2005

To

The Special Secretary (DP),

Government of Manipur.

Sub: Pension case in respect of Shri A. Kunjo Singh, retd. Asstt. Graduate teacher of Ningthoukhong Mamang Leikai Jr. High School.

Sir,

In inviting a reference to the Govt. of Manipur Secretariat, Department of Personnel (Pension Cell)'s letter No.14/1/99PC(EDNS)(Pt) dated 07082004 on the above subject wherein the pension papers of Shri A. Kunjo Singh, retd. A/T of Ningthoukhong Mamang Leikai Jr. H/S was forwarded to this office, I am to state that on scrutiny of the Service Book it is noticed that Shri A. Kunjo Singh was appointed as Hindi Graduate at Thenjang Junior High School on ad hoc basis with effect from 26.10.83 vide DE(S) order No.3/11/83ED(H)(PtI) dated 24.10.1983. The adhoc service was extended from time to time and in pursuance of O.Ms. No.3/2/85DP(I) dated 31.05.86 issued by the DP&AR(PD), Govt. of Manipur, the incumbent was temporarily appointed as Hindi Graduate Teacher at Thenjang Jr. High School with effect from 24.05.1986 vide order No.9/32/86ED dated 30.08.1986 (copies enclosed).

The ad hoc service of Shri A. Kunjo Singh for the period from 26.10.83 to 23.05.86 was regularized by the DE(S) vide his order No.9/27/91ED(Pt)(I) dated 02.03.04 (copy enclosed).

It may be mentioned that the order dated 02.03.04 ibid was not issued in pursuance of DP's O.M.No.23/15/90DP (Pt) dated 05.07.2003.

It is, therefore, requested to clarify acceptability of adhoc regularization order dated 02.03.04 mentioned above, while O.M. dated 05.07.03 is operative.

This may kindly be treated as MOST URGENT.

Yours faithfully,

Sd/

Sr. Accounts Officer/Pension?

6. Mr. Kh. Tarunkumar Singh, learned counsel for the petitioner submits that it is the duty of the concerned respondent(s) to take any appropriate decision on the question raised by the Sr. Accounts Officer/Pension under his letter dated 9.2.2005. This court is of the considered view that the submissions of the learned counsel for the petitioner has the force of law. Taking into consideration of the submissions of the learned counsels of both the parties as well as on perusal of the record more particularly the said letter of the Sr. Accounts Officer/Pension dated 9.2.2005, this writ petition is disposed of by directing the state respondents to take the appropriate decision on the questions or query made by

the Sr. Accounts Officer/Pension under his letter dated 9.2.2005 within a period of 2(two) months from the date of receipt of the certified copy of this judgment and order passed. Thereafter the respondents have to take up prompt and expeditious steps for payment of retirement benefits and other benefits if entitled to the petitioner.

7. With the above observations and directions, this writ petition is allowed. No costs.