
(2014) 07 MAN CK 0017
In the Manipur High Court
Case No : Writ Petition (C) No. 433 of 2011

Gonmei Joy Kabui

APPELLANT

Vs

The Manipur University

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 07 MAN CK 0017

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : H.S. Paonam, Sr. Advocate, Advocate for the Appellant; B.P. Sahu, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

N. Kotiswar Singh, J.—Heard Mr. H.S. Paonam, learned senior counsel for the petitioner and Mr. B.P. Sahu, learned counsel for the University respondents.

2. In the present writ petition, the petitioner has sought for a direction for setting aside the order dated 4.6.2010 by which the petitioner was allowed to retire from the University service voluntarily w.e.f. 7.6.2010.

3. The pleaded case of the petitioner is that the petitioner who was serving as a Grade IV employee in the Manipur University, having been appointed in the year 1984, because of certain personal reasons, sought voluntary retirement from service with effect from 7.6.2010 by submitting an application on 12.5.2010 to the Registrar, Manipur University.

According to the petitioner, as per his application the effective date for voluntary retirement was 7.6.2010. However, before the said effective date came into operation, the University issued the impugned order on 4.6.2010 allowing him to retire from service w.e.f. 7.6.2010. It is the case of the petitioner that after issuance of the said order, but before his voluntary retirement become effective from 7.6.2010 he submitted an application on 5.6.2010 to the Registrar of the

Manipur University through the Head of Department of History, requesting for revocation of his earlier application for voluntary retirement and requested to revoke the University order dated 4.6.2010. It is the case of the petitioner that since the authorities did not accede to the request of the petitioner, in spite of several reminders to that effect, the petitioner has been compelled to file the present writ petition seeking for a direction for quashing the said voluntary retirement order dated 4.6.2010 and to allow him to continue in service.

4. The Manipur University has contested the claim of the petitioner by filing affidavit in opposition. In the affidavit in opposition, the Manipur University has stated that the office of the Registrar, Manipur University did not receive any representation for withdrawal of his application for voluntary retirement from the petitioner before 7.6.2010, the intended effective date of retirement, and the employer employee relationship between the petitioner and the University came to an end w.e.f. 7.6.2010 and as such, there could not be any case for recalling the order dated 4.6.2010. It was also contended by the Manipur University that though the petitioner claimed that he had submitted a representation dated 5.6.2010 through the HOD, Department of History, the same was never received by the office of the Registrar. It was also stated that had the representation been submitted through proper channel as claimed by the petitioner, the relevant records for receipt of the same would have been found in the official record. However, no such record is available regarding receipt of any such application in the office of the Registrar of the Manipur University.

5. Mr. H.S. Paonam, learned senior counsel for the petitioner, however, has submitted that the petitioner is a Grade-IV employee, and not well versed with law and not well acquainted with office procedures and he had submitted his application for revocation of his earlier application for voluntary retirement on 5.6.2010 through the HOD, Department of History, Manipur University, i.e. through proper channel and as such, petitioner could not be made to suffer for the lapses on the part of any of the authorities concerned.

According to Mr. H.S. Paonam, learned senior counsel, even though the impugned order might have been issued on 4.6.2010, the effective date of retirement would be 7.6.2010 as also mentioned in the impugned order and as such the petitioner was within his right to submit an application for withdrawal of his earlier application for voluntary retirement before the effective date of 7.6.2010 came into operation. According to him, any such application for withdrawal submitted before the effective date had to be considered by the authorities, which had not been done in the present case and as such, the authorities had erred in not doing so. Since the petitioner had submitted an application through proper channel the University authorities are duty bound to consider the same in accordance with law.

Learned senior counsel for the petitioner also has submitted that other applications/reminders submitted to the authorities on 5.1.2011 and 15.3.2011 had been duly forwarded by the HOD, Department of History and received by the

authorities and there is no reason why his application dated 5.6.2010 would not have been received by the authority.

6. Mr. H.S. Paonam, learned senior counsel for the petitioner, also has submitted that the fact that the authorities have initiated an inquiry against the said HOD, Department of History by furnishing a show cause notice on 11.8.2011 (Annexure-R/1) shows that the petitioner had indeed submitted his application through the HOD, i.e., the proper channel, and for the reason that the HOD had not forwarded the application to the office of the Registrar in time, the petitioner could not be made to suffer.

In this regard, the learned counsel for the University, has produced the reply submitted by the HOD, History in response to the show cause notice dated 11.8.2011 which is placed on record and the same is marked "X". It reads as follows:

To

The Registrar,

Manipur University,

Canchipur, Imphal.

Sir,

In response to your letter dated 11th August, 2011, I am to state that I have never asked Shree Golmei Joy Kabui to attend the department and nor did I engage him as peon for which I do not have any authority.

Imphal, 25th August, 2011

Yours faithfully,

Sd/-

Head. Deptt of History .

7. Reading of the aforesaid reply shows that it neither mentions that the application dated 5.6.2010 had been submitted by the petitioner on 5.6.2010 nor does it deny receipt of any such application.

8. In conclusion, it can be stated that there is a dispute regarding the fact as to whether the petitioner had indeed submitted his application to the competent authority on 5.6.2010 seeking revocation of his earlier application for voluntary retirement as claimed by him which has been denied by the University authorities as mentioned above. It may be also noted that the entire case of the petitioner hinges on the establishment of this fact that he had indeed submitted his application on 5.6.2010 to the Registrar, Manipur University, seeking revocation of his earlier application for voluntary retirement. This Court is refraining from making any further observation on this issue, so as not to

prejudice the case of either of the parties in any subsequent proceeding.

9. This Court is of the view that this Court, exercising jurisdiction under Article 226 under which present writ petition has been filed by the petitioner, is not the proper forum to decide the correctness or otherwise of this disputed fact. Hence, the Court declines to entertain the present writ petition. However, the petitioner is at liberty to approach the other appropriate forum or Civil Court for redressal of his grievances by raising all the issues and questions which have been raised in the present petition in accordance with law.

10. This Court also has noted that the petitioner had submitted representations dated 5.1.2011 as well as 15.3.2011 and there is nothing on record to show that the University authorities have intimated their decision in that regard to the petitioner. It is accordingly directed that the respondent authorities shall dispose of the said representations within a period of one month from the receipt of a certified copy of this order, so as to enable the petitioner to decide his future course of action as indicated above.

With the above observation and direction, the writ petition stands disposed of.