
(1997) 11 GAU CK 0041
In the Gauhati High Court
Case No : Civil Rule No. 300 of 1996

H. Dilip Kumar Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 25-11-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 2 GLT 146

Hon'ble Judges : W.A. Shishak, J

Bench : Single Bench

Advocate : H.S. Paonam, for the Appellant; Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

W.A. Shishak, J.—The Petitioner herein was appointed as Chief Town Planner of Manipur on the recommendation of the Departmental Promotion Committee associated with the Manipur Public Service Commission and with the approval of the Manipur Public Service Commission given on 29.11.1990. The order of appointment was issued on 20th December, 1990.

2. In this writ petition under Article 226 of the Constitution, the Petitioner is claiming same scale of pay prescribed for the State Chief Engineer. This claim is based on Annexure-A/2 which is a recommendation issued by the State Ministers of Housing and Urban Development during the conference of the Ministers held in 1974 at Madras. The said recommendation is as follows:

The Chief Town Planner should be the Head of the Department and his status should be equated to that of the Head of Department of the Public Works Department of the State.

3. The Petitioner contends that the recommendation stated above was implemented by the State Government by issuing an order dated 10th October, 1979. The said order reads:

The Governor of Manipur is pleased to accord sanction to the upgradation of the post of Chief Town Planner, Town Planning Department, Manipur in the scale of pay of Rs. 2,100/- (fixed) P.M. from the existing scale of Rs. 1,400-1,900/- P.M. along with the present incumbent Shri L. Mangol Singh, Chief Town Planner with immediate effect.

This issues with the concurrence of Finance Department vide their U.O. No. 36/79-80/ FD(15) dated 17.7.79.

4. Thereafter a letter dated 9th November, 1979 was written to the Accountant General, Manipur by the State Government regarding upgradation of the post of Chief Town Planner, Town and Country Planning Department, Manipur. The said letter reads:

I am directed to refer to your letter No. GAII/PWD-97/759 dated 30.10.79 on the above subject and to say that the State Ministers (Housing and Urban Develop)"s Conference held in Madras in 1974 and recommended that the Status of the Chief Town Planner of the State should be equated to that of the Head of P.W.D. Besides, the Town Planning Department has now been greatly expanded and the Government has considered it necessary to upgrade the said post to that of the Chief Engineer of the sister Departments.

I am, therefore, to request you kindly to issue pay slip to Shri L. Mangal Singh Chief Town Planner at an early dates.

5. Let me now settle one controversy regarding the fixation of scale of pay in respect of the Chief Engineer of P.W.D. and also in respect of the Chief Town Planner in terms of Revision of, Pay brought about in 1982. Mr. Modhuchandra, learned Government Advocate submits that in terms of 1982 ROP, there was a difference in the scale of pay and that scale of pay prescribed for Chief Engineer, P.W.D. was higher than that of the scale prescribed for the Chief Town Planner. According to Mr. Modhuchandra, no objection was taken as regards the parity in the scales of pay between the Chief Engineer, P.W.D. and the Chief Town Planner. It is also submitted that at one time the scale of pay of the Chief Town Planner was equated with the scale of pay of the Chief Engineer, P.W.D., but such scale of pay was made personal to the then incumbent. It appears, on perusal of relevant documents including a copy of ROP, 1982, the controversy does not survive. In terms of ROP, 1982, the scale of pay prescribed for the State Chief Engineer is Rs. 2,100/- (Fixed) which was raised to 2250-2750/-, whereas the scale of pay prescribed for the Chief Town Planner was 1,400-1,900/- which was raised to 1800-2500/-. It may be stated that by a subsequent corrigendum issued on 16th December, 1985 the earlier notification dated 17.12.1982 was modified and the scale of pay in the said corrigendum aforesaid was Rs. 2,100/- (fixed). It is, therefore, submitted Mr. H.S. Paonam, learned Counsel for the Petitioner that the scale of pay of Rs. 2,100/- (fixed) was never meant only for the State Chief Engineer, but it was also equally meant for the Chief Town Planner and also the decision of Cabinet to give the said scale of pay was not meant for the then

incumbent only. In other-words no scale of pay for Chief Town Planner was fixed personal to a particular incumbent. This submission is made as against the submission made by Mr. Modhuchandra that the scale of pay of Rs. 2,100/- (fixed) was only meant for the then Chief Town Planner.

6. Thereafter Revision of Pay of 1990 was brought about. In 1990 ROP the scale of pay prescribed for Chief Engineer, P.W.D. was 4,100-5,300/-, whereas the scale of pay prescribed for Chief Town Planner was 3,000-5,000/-. The Petitioner represented against the ROP of 1990. Despite assurances made from time to time the grievance of the Petitioner was not met by the competent authority. At long last after the prayer of the Petitioner was rejected, he approached this Court by filing the present writ petition.

7. The Petitioner contends that since the post of Chief Town Planner is a permanent one created by the competent authority, the question of prescribing different scales of pay for the Chief Engineers of the State Departments on the one hand and the Chief Town Planner on the other should not arise at all. In other words it is contended that in view of the recommendation made by the Ministers of Housing and Urban Development as stated above and also further in view of the order of implementation of the recommendation stated above, it would not be permissible on the part of the State Government to discriminate against the Chief Town Planner as regards entitlement of equal scale of pay as is available to the Chief Engineers of the State Departments. The fact that the post of Chief Town Planner is a permanent one is supported by order dated 27th June, 1981 issued by the State Government.

The said order is as follows:

No. 1/10/77-LSG(TP): The Governor of Manipur is pleased to accord sanction to the conversion of the following temporary posts in the Town Planning Department, Manipur into permanent one with effect from 1.3.1981.

This is issued with the concurrence of Finance Department vide their U.O. No. 35/81-82/(F)(16) dated 30.5.1981.

8. Mr. Modhuchandra, learned Government Advocate, relying on AIR (1989) SC 90 submitted that this Court should not interfere in the present matter inasmuch as fixation of pay is the duty of the administration and such fixation of pay is done on the basis of expert opinion. It is also submitted that the action of the State Government cannot be said to be arbitrary inasmuch as the question of equation of post and scale etc. should be left entirely to be decided by the State Government on the basis of opinion given by expert body of the Government. As stated above, it is submitted by Mr. H.S. Paonam that since the anomalies of the ROP of 1990 were finally settled only in 1996, the Petitioner approached this Court as he felt aggrieved by the fixation of scale of pay for him. Hence delay in approaching this Court can be said to have been adequately explained in view of the circumstances of the present case. Since certain revisions of pay were notified only in 1996, in my view delay, if any, should not stand in the way of the

writ Petitioner approaching this Court to redress his grievance in the present case.

9. There is only one Chief Town Planner for the whole State of Manipur, Undoubtedly work load is on the increase year by year in view of the various developmental works undertaken in the State, Also works are expanding rapidly adding heavier and more responsibility to the work of the Chief Town Planner. I may also state here that the State has already notified to implement the recommendation of the Housing Ministers recommendation to equate the post of Chief Town Planner to the Head of Department of Public Works Department of the State. It appears to me that the Chief Town Planner has also heavy responsibility inasmuch as he is the sole Head of the Department of Town Planning. As such, in my view, it will be reasonable and equitable that the Chief Town Planner is also allowed the scale of pay prescribed for the Chief Engineer of the State Departments.

10. In the result this petition is allowed in terms of my findings above. In my view there is no reasonable ground to deny to the writ Petitioner the scale of pay prescribed for the Chief Engineer of Public Works Department in the facts and circumstances of the case. An order in this regard shall be issued by the competent authority within a period of 3 (three) months from the date of receipt of this order.

I pass no order as to costs.