
(2022) 06 MAN CK 0026

In the Manipur High Court

Case No : Writ Petition (C) No. 292, 1044 Of 2019, 471 Of 2020, Contempt Cas(C) No. 20 Of 2019 Ref: Writ Petition (C) No. 411 Of 2017, Miscellaneous Case (Writ Petition (C)) No. 161 Of 2020 Ref:- Writ Petition (C) No. 471 Of 2020

Keisham Dilipkumar Singh & Ors

APPELLANT

Vs

State Of Manipur & Ors

RESPONDENT

Date of Decision : 08-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2022) 06 MAN CK 0026

Hon'ble Judges : MV Muralidaran, J

Bench : Single Bench

Advocate : I. Denning, I. Lalitkumar, Ch. Sundari, M. Devananda, Dr. RK Deepak

Final Decision : Allowed/ Dismissed/ Disposed Of

Judgement

M.V. Muralidaran, J

1. W.P.(C) No.292 of 2019 has been filed to quash the order dated 27.2.2019 issued by the Secretary, Manipur Public School Society, Imphal, directing the petitioner to refund the excess amount which he had drawn by challenging the corrigendum issued by the then Commissioner, Education (S), Government of Manipur/Secretary, Manipur Public School Society, Imphal dated 8.12.2006.

2. W.P.(C) No.1044 of 2019 has been filed to quash the order dated 23.9.2019 issued by the Secretary, Manipur Public School Society, Imphal, in respect of the respondents 4 to 8.

3. W.P.(C) No.471 of 2020 has been filed to direct the respondents to release the regular pay and allowances in terms of the order dated 4.8.2016 issued by the Secretary, Manipur Public School Society, Imphal, as well as the judgment and order dated 16.10.2019 passed in W.A.No.12 of 2019 with interest at the rate of 12% per month till the realization of the said amount.

4. Contempt Case No.20 of 2019 has been filed by the petitioner to initiate contempt proceedings against the respondents/contemnors for their intentional, willful and deliberate disobedience of the order dated 8.10.2018 passed in W.P. (C) No.411 of 2017. In the Contempt Case, the petitioner has also filed M.C. (Contempt Case) No.102 of 2021 to implead Shri M.Harekrishna, IAS as respondent No.3 and 4 in the capacity as the Secretary/Commissioner, Education (S), Government of Manipur and the Secretary of Manipur Public School Society.

5. Since the parties and the issue involved are one and same, all the writ petitions, contempt case and other related miscellaneous petitions were heard together and disposed of by this common order.

6. The case of the petitioner in W.P.(C) No.292 of 2019 is that the impugned order dated 27.2.2019 directing him to refund the excess amount which has been drawn by him by challenging the corrigendum dated 8.12.2006 is vague and arbitrary, as the same adversely infringes and affects the rights of the petitioner. Moreover, the salary of the petitioner has not been paid by the authorities for the last few months and he is maintaining the family with his meagre earning and it has become extremely difficult for him to sustain daily expenses for himself and his family.

7. The case of the petitioner in W.P.(C) No.1044 of 2019 is that vide order dated 23.9.2019, the Secretary, Manipur Public School Society, Imphal has finalized and published the seniority list of Post Graduate Teachers and Trained Graduate Teachers of Manipur Public School. The petitioner assailed the said order on the ground that there are only three categories of teachers i.e. Post Graduate Teacher, Trained Graduate Teacher and Rhyme Graduate Teacher and the fourth respondent Premabati Devi is not a regular Principal nor a Post Graduate Teacher. As such, placing her above the Post Graduate Teachers as well as in a different category is bias, malafide and arbitrary. Similarly, placing the respondent 5 to 8 above the petitioner is also arbitrary.

8. The case of the petitioner in W.P.(C) No.471 of 2020 is that though the Hon'ble Division Bench of this Court in W.A.No.12 of 2019 arising out of W.P.(C) No.1050 of 2016 set aside the corrigendum dated 8.12.2016, the concerned authorities have failed to pay or release the entitled pay and allowances as well as arrears thereof to the petitioner. Hence, the respondent authorities may be directed to release the entitled pay and allowances to the petitioner with interest at the rate of 12% per month.

9. The respondents have not filed counter-affidavits in W.P.(C) Nos.292 and 1044 of 2019. However, the first respondent filed counter-affidavit in W.P.(C) No.471 of 2020 stating that the writ petition is not maintainable, as the petitioner is seeking direction to implement the judgment and order dated 16.10.2019 passed in W.A.No.12 of 2019. Filing a fresh writ petition for implementation of the direction passed by the Hon'ble Division Bench, is not maintainable and therefore, the writ petition deserves to be dismissed.

10. The respondent Manipur Public Society has also filed M.C.(WP) No.161 of 2021 to dismiss W.P.(C) No.471 of 2020 as not maintainable in its present form. The said petition was also heard along with these writ petitions.

11. The submissions of the learned counsel for the petitioner, challenging the impugned order dated 27.2.2019 and the impugned seniority list dated 23.9.2019 are summarized as under:

W.P.(C) No.292 of 2019:

- The impugned order dated 27.2.2019 is vague and non-executable, inasmuch as there is no judgment dated 28.1.2019 passed in W.P.(C) No.1050 of 2016 against the petitioner. In other words, the petitioner is not a party to the said judgment. As such the direction of the concerned respondents ordering the petitioner to refund the excess amount is unfounded and baseless.
- The salary of the petitioner was paid as per the submission of the learned counsel appearing for the respondents in W.P.(C) No.1050 of 2016 and the petitioner has never played fraud, misrepresentation or concealed the facts before the authorities concerned.
- It is on the recommendation of the Screening Committee to place the present petitioner in the senior scale of pay on the date of completion of 12 years of service i.e. 31.5.2020, which was counted from the date of appointment as Assistant Teacher with effect from 1.6.1988.
- The impugned order does not qualify from any tangent or angle to be specific on cogent reasons and grounds and reasonable.
- The corrigendum dated 8.12.2016, which was under challenge in W.P.(C) No.1050 of 2016, was set aside by the Division Bench in W.A.No.12 of 2019 dated 16.10.2019.

W.P.(C) No.1044 of 2019:

- The impugned order dated 23.9.2019 was issued in violation of the procedure provided under the applicable byelaws of Manipur Public School Society and more specifically, in violation of the order dated 25.6.2010 whereby categorization of the teaching staff of Manipur Public School was allowed.
- The fourth respondent's name was found at Serial No.1 of the Annexure-II of the order dated 25.6.2010 as Trained Graduate Teacher under category Head Mistress is found under a different category with designation as Principal. In other words, there are only three categories of teacher i.e. Post Graduate Teacher, Trained Graduate Teacher and Rhyme Graduate Teacher and the fourth respondent is not a regular Principal nor a Post Graduate Teacher. As such placing her above those Post Graduate Teachers as well as in a different category is arbitrary.
- Since the Division Bench of this Court set aside the corrigendum dated

8.12.2016, placing the petitioner with effect from 28.3.1995 is wrong and illegal.

- The petitioner is the senior most Post Graduate Teacher in the teaching staff of Manipur Public School. However, in the final seniority list, the petitioner has been placed at Serial No.5.

W.P.(C) No.471 of 2020:

- The petitioner was receiving his regular pay and allowances as per the order dated 4.8.2016, however, such regular pay and allowances was later on modified by passing a corrigendum dated 8.12.2016. Subsequently, the corrigendum dated 08.12.2016 was quashed by the Hon'ble Division Bench in W.A.No.12 of 2019, dated 16.10.2019. Therefore, the respondents ought to comply with their own order dated 4.8.2016 as well as the judgment dated 16.10.2019 passed in W.A.No.12 of 2019 as the said judgment attained finality.

- The action of the respondents in not releasing the entitled pay and allowances and the arrears thereof is nothing but unfair, unjust and unreasonable.

- Since the income of the petitioner being an important and essential requirement for him and his family for sustenance of their life, the respondent authorities may be directed to release the entitled pay and allowances of the petitioner immediately.

- The respondents, in fact, by not following relevant Rules and Bye-laws are acting against the petitioner and have caused mental agony to the petitioner.

12. Per contra, Mr. Devananda, the learned counsel appearing for the respondent School submitted that as far as W.P.(C) No.292 and 1044 of 2019 are concerned, there is no irregularity and illegality in issuing the impugned orders dated 27.2.2019 and 23.9.2019. Insofar as W.P.(C) No.471 of 2020 is concerned, the learned Advocate submitted that the said writ petition is not maintainable, as the petitioner seeking direction to implement the judgment dated 16.10.2019 passed in W.A.No.12 of 2019. The learned Advocate submits that for implementation, the petitioner cannot file a fresh writ petition and therefore, the prayer to release his regular pay and allowances, including arrears cannot be granted. Mrs. Ch. Sundari, learned Government Advocate appearing for the State Respondents in all the writ petitions argued the same point as raised by Mr. M. Devananda.

13. This Court considered the rival submissions and also perused the materials available on record.

14. The petitioner is working as a Post Graduate Teacher (Mathematics) in Manipur Public School, Koirengai and he was initially appointed as an ad-hoc Assistant Teacher in the said school for a period of three months on 22.7.1986 and, thereafter, he was appointed as Assistant Teacher on regular basis on 23.7.1988 on the recommendation of the duly constituted DPC. On 11.4.1980, the Selection Committee approved that the pay scales of the Assistant Teacher and the Senior Teacher be fixed in the scale of Rs.650-40-1050-50-1200 and

Rs.950-50-12-60-1500 respectively. On 2.12.2019, the Academic Sub-Committee took some resolutions, by which, it was resolved to adopt the pay scales of three categories of teachers, namely (i) Rhyme Teacher; (ii) Trained Graduate Teacher and (iii) Post Graduate Teacher as per the State Government norms and the existing pay for the current regular teachers would remain unchanged except for necessary increments as per the respective categories. It was further resolved that the Assistant Teachers on regular basis would be categorized giving the status of Post Graduate Teacher to those teachers who were currently teaching the students of Class-XI and XII as per the subject requirements and that all other teachers teaching the students of Class I to X be given the status of Trained Graduate Teacher.

15. The recommendation of the Academic SubCommittee was accepted by the Executive Committee of Manipur Public School Society and, accordingly, the Secretary, Manipur Public School Society issued an order dated 25.6.2010 categorizing the teaching staff of Manipur Public School into three categories by enclosing a tentative seniority list of the teaching staff, wherein the name of the petitioner appeared at Serial No.15 showing his date of regular appointment as 1.6.1988

16. On 2.1.2013, the Secretary, Manipur Public School Society, Koirengei published a notification thereby notifying to all concerned the tentative seniority list of the teaching staff of the School. It was further informed in the said notification that submission of objections may be made on or before 18.1.2013 to its concerned office and if no objections are received within the stipulated date, it will be presumed that no objections have been made or forwarded to such tentative seniority list dated 2.1.2013. In the said list, the petitioner's name found place at Serial No.5 of the Post Graduate Teachers. During pendency of such tentative seniority list, the Secretary has issued an order dated 29.7.2013 thereby allowing the fourth respondent, namely Premabati Devi to look after the said School until a regular Principal is posted or appointed. Assailing the order dated 29.7.2013, one Waikhom Somorendro Singh, a Post Graduate Teacher, filed W.P.(C) No.541 of 2013 before this Court and by the order dated 7.8.2013, the said writ petition was dismissed.

17. On the recommendation of the Screening Committee dated 22.7.2016, the Secretary, Manipur Public School Society issued an order dated 4.8.2016 granting ACP to the teaching as well as non-teaching staff of Manipur Public School for having completed 12/15 years of regular service, wherein the name of the petitioner appeared at Serial No.3 showing the date of regular appointment as 1.6.1988 and the completion of 12 years of service as on 31.5.2000 and accordingly, the petitioner was recommended for scale of Rs.8,000-13,500/-. However, the Commissioner, Education (S), Government of Manipur issued a corrigendum dated 8.12.2016 modifying the date of completion of 12 years of service to be calculated from 27.3.2007 and not from 1.6.1988. Aggrieved by the same, the petitioner has filed W.P.(C) No.1050 of 2016 inter alia on the ground

that the corrigendum was issued without any basis as the petitioner has completed 12 years of service as on 1.6.1988. By the order dated 21.12.2018, the learned Single Judge of this Court dismissed the writ petition holding that the petitioner did not have Post Graduate Degree on 1.6.1988 and also held that there is no infirmity on the decision made by the respondents to issue the corrigendum dated 8.12.2016 and thus dismissed the writ petition.

18. Aggrieved by the order of the learned Single Judge, the petitioner has preferred W.A.No.12 of 2019. By the judgment dated 16.10.2019, the Hon'ble Division Bench of this Court allowed the appeal and set aside the order of the learned Single Judge. Resultantly, the corrigendum dated 8.12.2016 stands quashed. In the said judgment, the Hon'ble Division Bench also directed Manipur Public School Society to take an appropriate decision in accordance with law after the petitioner being given an opportunity of being heard.

19. It appears that in the order impugned dated 27.2.2019 in W.P.(C) No.292 of 2019 it has been stated that the same was issued as per the order dated 28.1.2019 whereby the petitioner was directed to refund the excess amount which he had drawn by challenging the corrigendum issued by the then Commissioner, Education (S)/Secretary, Manipur Public School Society, Imphal dated 8.12.2006. Admittedly, there is no such order dated 28.1.2019. On the other hand, the final order was passed in W.P.(C) No.1050 of 2016 only on 21.12.2018.

20. The Hon'ble Division Bench of this Court, while considering the appeal preferred against the order dated 2.12.2018 passed in W.P.(C) No.1050 of 2016 set aside the corrigendum dated 8.12.2016. Paragraphs 7 and 8 of the judgment in the writ appeal are relevant and the same are quoted hereunder:

"[7] It may be noted that the corrigendum has referred to the order dated 04.08.2016 issued by the Secretary, Education (S), Government of Manipur wherein it has been specifically stated that the teaching staff have been placed in the senior scale of pay after verification of their service books, integrity and ACRs for completion of 12/15 years of regular service in the same grade. It is the respondents which have issued the said order granting benefits to the appellant and in other words, a right thereof has accrued in favour of the appellant. If the respondents felt that the benefits had been erroneously granted to the appellant and the same be withdrawn, they could have done so by giving the appellant an opportunity of being heard and the failure on the part of the respondents in doing that, had infringed the fundamental rights of the appellant guaranteed under Article 14 of the Constitution of India. On top of that, no reason was assigned by the respondents in the corrigendum. Therefore, the contention of the counsel appearing for the respondents that while issuing the impugned order, the appellant's right has not been violated at all, cannot be accepted by this Court, for the reason that what is not there in the corrigendum, cannot be explained in the affidavit as has been held by the Hon'ble Supreme Court as shown above. These points have not been considered by the learned Single Judge and

therefore, its judgment and order is not tenable and is liable to be quashed and set aside.

[8] For the reason stated hereinabove, while allowing the writ appeal with no order as to costs, the judgment and order of the learned Single Judge is quashed and set aside and consequently, WP(C) No.1050 of 2016 is allowed with the direction that the corrigendum dated 08.12.2016 stands quashed and set aside. However, it is open to the MPSS to take an appropriate decision in accordance with law after the appellant being given an opportunity of being heard."

21. Admittedly, the respondents have not filed any counter-affidavit in W.P.(C) No.292 of 2019. In the absence of any counter-affidavit filed refuting the averments of the petitioner and in view of the grounds raised by the petitioner in W.P.(C) No.292 of 2019 for setting aside the order dated 27.2.2019 and also since the corrigendum dated 8.12.2016, which is the basis for issuance of the impugned order dated 27.2.2019 has been set aside by the Hon'ble Division Bench of this Court in W.A.No.12 of 2019, there is no alternative but to allow W.P. (C) No.292 of 2019 and to set aside the impugned order dated 27.2.2019. Accordingly, the impugned order dated 27.2.2019 assailed in W.P.(C) No.292 of 2019 is set aside.

22. Coming to W.P.(C) No.1044 of 2019, the learned counsel for the petitioner argued that the order impugned dated 23.9.2019 was issued in violation of the order dated 25.6.2010 whereby categorization of the teaching staff of Manipur Public School was allowed. According to the petitioner, the name of fourth respondent (Premabati Devi) found at Serial No.1 of the said order as Trained Graduate Teacher under category Head Mistress was found under a different category with designation as Principal. In other words, there are only three categories of teachers and the fourth respondent is not a regular Principal nor a Post Graduate Teacher. As such, placing her above those Post Graduate Teachers as well as in a different category is arbitrary.

23. To counter the said argument of the learned counsel for the petitioner, the respondents have not produced any materials. In fact, the aforesaid plea of the petitioner has been dealt with by the Hon'ble Division Bench of this Court in W.A.No.12 of 2019 elaborately in paragraph 3.3 and paragraph 3.3 is extracted hereunder for ready reference:

"[3.3] The recommendation of the Academic Sub-Committee was accepted by the Executive Committee of the MPSS and accordingly, the Secretary, MPSS issued an order dated 25.06.2010 categorizing the teaching staff of MPS into three categories, enclosing therewith, a tentative seniority list of the teaching staff wherein the name of the petitioner appeared at Sl.No.15 showing his date of regular appointment as 01.06.1988. On the recommendation of the Screening Committee in its meeting held on 22.07.2016, the Secretary, MPSS issued an order dated 04.08.2016 granting ACPs to the teaching as well as non-teaching staff of the MPS for having completed 12/15 years of regular service. The name

of the petitioner appeared at Sl.No.3 at Annexure-II of the said order dated 04.08.2016 showing the effective date of regular appointment as 01.06.1988 and the completion of 12 years of service as on 31.05.2000 and accordingly, the petitioner was recommended for a scale of Rs.8,0000-13,500/-. However, the Commissioner, Education(S), Government of Manipur/Secretary, MPSS issued a corrigendum dated 08.12.2016 modifying his date of completion of 12 years of service to be calculated from 27.03.2007 and not from 01.06.1988. Being aggrieved by the said corrigendum, the writ petition being WP(C) No.1050 of 2016 was filed by the petitioner on the inter-alia grounds that the corrigendum was issued without any basis inasmuch as the petitioner had already completed 12 years of service as on 01.06.2000 calculating from the date of regular appointment i.e., 01.06.1988, that it was not issued on the basis of the recommendation of the Screening Committee, that from the date of his initial appointment as Assistant Teacher, the petitioner had been enjoying the scale of pay of PGT w.e.f. 01.06.1988 and that the corrigendum was erroneous and is liable to be quashed and set aside."

24. Thus, from the materials produced and also from the judgment of the Hon'ble Division Bench of this Court in W.A.No.12 of 2019, it is clear that it is only on the recommendation of the Screening Committee to place the petitioner in the senior scale of pay on the date of completion of 12 years of service i.e. 31.5.2000, which was counted from the date of appointment as Assistant Teacher with effect from 1.6.1988. However, the Commissioner, Education (S)/ Secretary, Manipur Public School Society issued the corrigendum dated 8.12.2016 modifying his date of completion of 12 years of service to be calculated from 27.3.2007 and not from 1.6.1988. As stated supra, the corrigendum dated 8.12.2016 stands set aside by the Hon'ble Division Bench of this Court.

25. According to the petitioner, on 19.12.2018, the Principal, Manipur Public School, Koirengei issued a circular informing all staff members both teaching and non-teaching for verification of the enclosed list for finalization. In pursuance of such circular, the petitioner submitted a representation dated 2.1.2019 to the Secretary, Manipur Public School Society as well as the Principal, Manipur Public School to review and correct the circular dated 19.12.2018. In his representation dated 2.1.2019, the petitioner has stated as under:

"That, the undersigned respectfully submits that in the category of seniority list of PGT's the undersigned name has been reflected at Sl.No.2 of such list. It is beg to submit that the undersigned stands senior to the Sl. No.1 of such list as the undersigned has joined service only July, 1986 as Assistant Teacher on adhoc basis whereas the person/employee namely Kh. Jasobanta Singh whose name appeared at Sl.No.1 of such list joined the service in the year Sept. 1986. However, both were regularized w.e.f. 01.06.1988 to the said capacity vide order No.2/Adm/3/MPS-87 dated 28th May, 1992 issued by the Secretary, Manipur Public School Society, Imphal. On the other hand, if two persons are regularized

in the same year on the same date; then, the employee with the older age should get priority to stand senior than those whose age is lower/younger than the said person. Thus, the said factum needs to be corrected and reflected in the final seniority list to be published.”

26. It appears that on 10.1.2019, the Principal, Manipur Public School, Koirengei, issued a notification thereby publishing a tentative seniority list of teaching staff of Manipur Public School, Koirengei, and objections were called for by 19.1.2019 with a condition that if no objection is received within the stipulated date, it will be presumed that there is no objection to the tentative list. Pursuant to the notification dated 10.1.2019, the petitioner has submitted a representation dated 14.1.2019 for reviewing and necessary correction in the notification dated 10.1.2019. In his representation/objection dated 14.1.2019 to the notification dated 10.1.2019, the petitioner has stated as under:

“That, the undersigned respectfully submits that in the list of PGT vide Notification dated 10/01/2019, the name of Th. Surjit Singh has been added newly. However, the said person had joined the service on adhoc basis in the said School and was later on regularized on the same date i.e. 01/06/1988 like the undersigned. And further submits that the said person had rendered his service as TGT till 2008, as he was not qualified to be included in the GT list, and further clarifies that the subject in which he had expertise i.e. Physical Education was only offered in 2008; as the same was opened to Class XI and XII in the year 2008 only. As such, the person whose qualification was counted from 2008 onwards cannot stand senior to the undersigned. Moreover, the categorization of teachers was done w.e.f. 01/01/1996 and the undersigned had become a PGT teacher since then, however, the said person became PGT only after the said subject, Physical Education, was only offered to Class XI and XII in the year 2008. Therefore, the said tentative Seniority List Vide Notification dated 10th January, 2019 needs to be reviewed and corrected.

3. That, it is humbly and respectfully submitted that the post of Principal has not been able to fill up on regular basis by the concerned authority till date and the Notification dated 10th January, 2019 has been purportedly issued by the Principal of Manipur Public School, Koirengel without including herself in the list of seniority list of TGT's. As such, the said person whose name is reflected in the list of TGT as per the Order dated 25/06/2010 and the Notification dated 02/01/2013 could not stand as Principal without including herself in the list of teaching staffs of Manipur Public School, Koirengei. And issuance of such Notification dated 10th January, 2019 by the i/c Principal of Manipur Public School, Koirengei is highly objectionable and the same needs to be corrected and to be interfered with by the concerned authorities. And moreover, the seniority list is to be notified by the concerned Secretary who is the authorized person in this connection. Thus, the said Notification dated 10th January, 2019 is to be interfered with by the authorities by considering the objections of the undersigned and further require to be reviewed and corrected in accordance with

applicable and admissible relevant rules etc.

Thus, in the facts and circumstances narrated above, the said Notification dated 10th January, 2019 suffers from various irregularities and defects, as such, the undersigned raised objections to the same in the manner as submitted in the above foregoing paras and further respectfully submits that the same is highly required to be reviewed and corrected by the authorities by considering the objections of the undersigned in accordance with applicable and admissible relevant rules etc.

27. The petitioner has raised a specific objection as to the tentative seniority list dated 10.1.2019, inter alia, questioning the authority of the Principal to publish such tentative seniority list by stating that the seniority list is to be notified by the concerned Secretary only. On a perusal of the impugned order dated 23.9.2019 publishing the final inter-se seniority, it is found that the same has been issued by the Secretary, Manipur Public School Society, Imphal. The impugned order dated 23.9.2019 reads thus:

"NO.4/ACCTT/52/MPS-2016/2017: Whereas, a tentative Seniority list of PGT's and TGT's of Manipur Public School has been issued vide Notification No.1/MPS/VP/2012 dated 10th January, 2019, inviting claims and objections from the teachers.

Whereas, the claims and objections received from the teachers have been taken into consideration and in accordance with the appointment orders, the final inter-se seniority list of PGT's and TGT's of Manipur School is published as enclosure given."

28. Admittedly, the impugned order dated 23.9.2019 does not speak about the consideration of the objections specifically. In the impugned order, it has been simply stated that the claims and objections received from the teachers have been taken into consideration. Mere stating of consideration of the claims and objections received is not enough and the authority that is bound to publish the final seniority list ought to have specifically stated the objections and its consideration in the final order and then publish the final seniority list. However, in the case on hand, the respondent authorities have failed to follow the said procedure.

29. There is also material to show that the petitioner is a senior most Post Graduate Teacher in the teaching staff of Manipur Public School. However, in the final seniority list of Post Graduate Teachers, the petitioner has been placed at Serial No.5 and the respondents 4 to 8 have been placed above the petitioner, which is the incorrect placement, in view of the discussions held supra. Therefore, this Court is of the view that the impugned order dated 23.9.2019 thereby publishing the final seniority list in respect of the respondents 4 to 8 is not in accordance with law and hence, the same is liable to be set aside.

30. It also appears that earlier the petitioner and one Khuraijam Jashobanta

Singh have filed W.P.(C) No.411 of 2017 for direction on the respondents to fill up the vacant posts of the Vice Principal and the Principal and also direct the respondents to finalize the final seniority list of the employees of Manipur Public School. By the order dated 8.10.2018, the learned Single Judge of this Court disposed of the writ petition by directing the respondents therein to take appropriate and immediate steps to ensure that the preparation of Recruitment Rules in respect of the posts of Vice Principal and Principal is completed within a reasonable time, preferably within three months from the date of the order and that after the Recruitment Rules having been finalized, appropriate steps be taken by the respondents to finalize the seniority list of the employees of the Manipur Public School.

31. Alleging disobedience, the writ petitioners in W.P.(C) No.411 of 2017 filed Contempt Case No.20 of 2019 contending that the respondent authorities have failed to implement the order dated 8.10.2018 and therefore, the respondents/contemnors are liable to be punished.

32. Defending the Contempt Case, the learned counsel appearing in the Contempt Case submitted that pursuant to the direction dated 8.10.2018 in W.P.(C) No.411 of 2017, the Secretary, Manipur Public School Society vide order dated 23.9.2019 prepared the seniority list for Post Graduate Teachers and Trained Graduate Teachers of Manipur Public School. He also stated that vide notification dated 26.10.2020, the Secretary has published the Recruitment Rules for the employees of the Manipur Public School for the post of Principal and the Vice Principal.

33. In reply, the learned counsel for the petitioner submitted that though the respondents are directed to frame the Recruitment Rules within a period of three months from 8.10.2018 and thereafter to finalize the seniority list of the employees of Manipur Public School, such direction of this Court has been violated by the respondent/contemnors and the respondents/contemnors issued the order only on 23.9.2019 prior to framing of Recruitment Rules and that the Recruitment Rules were framed and published on 26.10.2020.

34. The validity of framing of Recruitment Rules as directed by this Court in the earlier round of litigation cannot be gone into in the present writ petitions. Regarding the order dated 23.9.2019 thereby publishing the final seniority list is concerned, in the earlier paragraph, this Court held that the same is vitiated and has been published without considering the objections in proper manner. Though the compliance order dated 23.9.2019 is vitiated since compliance of the order dated 8.10.2018 in W.P.(C) No.411 of 2017 has been made, the Contempt Case No.20 of 2019 is liable to be dismissed. It is reiterated that the merits of the order dated 23.9.2019 has been dealt with in the earlier paragraphs while deciding W.P.(C) No.1044 of 2019 which has been filed challenging the order dated 23.9.2019.

35. Insofar as W.P.(C) No.471 of 2020 is concerned, the learned counsel for the

petitioner submitted that since the corrigendum dated 8.12.2016 has been quashed by the Division Bench in W.A.No.12 of 2019 dated 16.10.2019, the respondents ought to release the pay and allowances, including the arrears thereof as per the order dated 4.8.2016 as well as the judgment dated 16.10.2019 in W.A.No.12 of 2019.

36. On the other hand, the learned counsel appearing for the School questioned the very maintainability of W.P.(C) No.471 of 2020 by contending that the petitioner is seeking direction to implement the judgment dated 16.10.2019 passed in W.A.No.12 of 2019 by way of the present writ petition and filing of fresh writ petition for implementation cannot be entertained. This Court finds no force in the said submission of the learned counsel, particularly maintainability of the writ petition.

37. There must be a cause of action for filing the writ petition, for which the petitioner has stated that the respondents are to be directed to release the pay and allowances as per the judgment dated 16.10.2019 in W.A.No.12 of 2019 and as per their own order dated 4.8.2016.

38. The order dated 4.8.2016 reads thus:

"No.4/Acctt/1/MPS-2010 : On the recommendation of the Screening Committee in its meeting held on 22nd July 2016, the Head Mistress Post Graduate Teachers (PGT's), Trained Graduate Teachers (TGT's) Graduate Teachers (GT's) and A.C.P. for Group – III and IV employees contained in Annexure I to VI are placed in the senior scale of pay and ACP I/II with effect from the dates shown against their names after verification of their service books, integrity and ACR's for completion of 12/15 years of regular service in the same grade. Fixation of their pay under F.R.22(I)(a)(I) in the senior scale and ACP are allowed vide Govt. Orders No.38/8(I) 195-SE(H/S) dated 14.7.1997 and No.1/115/98-PIC dated 11.1.1999 and 7.9.1999 and Govt. orders No.16/28/2000 – FD 9PIC) of dated Imphal the 22nd June 2005."

39. As stated supra, regarding the order dated 4.8.2016, the Division Bench of this Court in W.A.No.12 of 2019 held that on the recommendation of the Screening Committee in its meeting held on 22.7.2016, the Secretary, MPSS issued an order dated 4.8.2016 granting ACPs to the teaching as well as the non-teaching staff of the MPS for having completed 12/15 years of regular service. The name of the petitioner appeared at Serial No.3 at Annexure-II of the said order dated 4.8.2016 showing the effective date of regular appointment as 1.6.1988 and the completion of 12 years of service as on 31.5.2000 and accordingly, the petitioner was recommended for a scale of Rs.8,000-13,500/-. When the Division Bench itself has considered the order dated 4.8.2016 in its judgment, this Court again cannot go into the merits of the order dated 4.8.2016 and findings regarding the order dated 4.8.2016 passed by the Division Bench is binding on the instant writ petitions and also on all parties.

40. At this juncture, the learned counsel for the petitioner submitted that prior to

the corrigendum dated 8.12.2016 issued by the Commissioner, Education (S)/ Secretary, Manipur Public School Society, the petitioner was receiving his regular pay and allowances as per the order dated 4.8.2016. However, such regular pay and allowances as per the order dated 4.8.2016 was subsequently modified by passing the corrigendum dated 8.12.2016 by the respondent authorities. After that the petitioner was receiving his pay and allowances as per the corrigendum dated 8.12.2016.

41. The learned counsel for the petitioner urged that after the dismissal of W.P. (C) No.1050 of 2016 and since the Division Bench set aside the order in W.P.(C) No.1050 of 2016 thereby quashing the corrigendum dated 8.12.2016, the petitioner is entitled to receive his regular pay and allowances as per the order dated 4.8.2016. This Court finds some force in the said submission of the learned counsel for the petitioner.

42. Since the corrigendum dated 8.12.2016 has been quashed by the Division Bench of this Court, payment of pay and allowances as per the corrigendum dated 8.12.2016 is not correct and the same has to be rectified and the respondents are to release the pay and allowances as per the order dated 4.8.2016. In view of the above, the petitioner is entitled to the regular pay and allowances in terms of the order dated 4.8.2016 as well as the judgment dated 16.10.2019 in W.A.No.12 of 2019, including arrears.

43. The argument of the learned counsel for the Respondent School that when there is no appeal filed by either of the parties against the judgment dated 16.10.2019 passed in W.A.No.12 of 2019, filing of fresh writ petition being W.P. (C) No.471 of 2020 for implementation of the direction of the Division Bench of this Court is not maintainable, cannot be countenanced and W.P.(C) No.471 of 2020 is very well maintainable in the facts and circumstances set out in the said writ petition.

44. In the light of the above discussions, this Court is of the view that the impugned order dated 27.2.2019 directing to refund the excess amount which the petitioner has drawn by challenging the corrigendum dated 8.12.2006 and the impugned order dated 23.9.2019 thereby publishing the inter-se seniority list in respect of the respondents 4 to 8 in W.P.(C) No.1044 of 2019 are liable to be set aside. Further, the petitioner is entitled the regular pay and allowances in terms of the order dated 4.8.2016 issued by the Secretary, Manipur Public School Society as well as the judgment dated 16.10.2019 in W.A.No.12 of 2019. In view of the compliance made, Contempt Case No.20 of 2019 is liable to be dismissed.

45. In the result,

(i) W.P.(C) No.292 of 2019 is allowed and the impugned order dated 27.2.2019 bearing No.7/111/MPS-86:/5144 issued by the Secretary, Manipur Public School Society, Imphal is set aside.

(ii) W.P.(C) No.1044 of 2019 is allowed and the impugned order dated 23.9.2019

issued by the Secretary, Manipur Public School Society, Imphal in respect of the respondents 4 to 8 is set aside.

(iii) W.P.(C) No.471 of 2020 is allowed.

(iv) The respondents are directed to release the regular pay and allowances to the petitioner in terms of the order dated 4.8.2016 issued by the Secretary, Manipur Public School Society, Imphal as well as the judgment dated 16.10.2019 passed in W.A.No.12 of 2019, including arrears, if any.

(v) The direction (iv) aforesaid is to be complied within a period of three months from the date of receipt of a copy of this order.

(vi) In view of the maintainability of W.P.(C) No.471 of 2020 and allowing of the writ petition, M.C.(W.P) No.161 of 2020 filed by the Manipur Public School Society in the said writ petition, is dismissed.

(vii) Contempt Case No.20 of 2019 is dismissed. Consequently, M.C. (Contempt Case) No.102 of 2021 is closed.

(viii) No costs.