
(2019) 04 MAN CK 0021
In the Manipur High Court
Case No : Writ Petition (c) No. 301 Of 2018

Kh. Shakhenbi Devi And Others

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 02-04-2019

Acts Referred:

Citation : (2019) 04 MAN CK 0021

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : M. Hemchandra, Y. Ashang,

Final Decision : Allowed

Judgement

Kh. Nobin Singh, J

[1] Heard Shri M. Hemchandra, learned Senior Advocate appearing for the petitioners and Shri Y. Ashang, learned Government Advocate appearing for the respondents.

[2] The facts of the present case are almost identical to that of the writ petition being WP(C) No.179 of 2018 and therefore, the same are not repeated here for the sake brevity. The said writ petition being WP(C) No.179 of 2018 has been allowed vide judgment and order dated 02-04-2019, the relevant paragraphs read as under:

"[4] The main ground on the basis of which the instant writ petition has been filed by the petitioners is that while issuing the government order dated 12-06-2017 regularising the services of the petitioners, the State Government has failed to comply with the directions contained in the judgment and order dated 29-09-1997 resulting in the denial of the rights accrued to them and that since most of the petitioners are on the verge of retirement, it is highly improper on the part of the State Government to delay the implementation of the said judgment and order. On the other hand, the stand of the State Government as

indicated in their affidavit, is that since the revised scheme for recruitment of Casual/ Muster Roll employees of Forest Department was not given effect to, all the Casual/ Muster employees in the Department were regularized vide order dated 12-06-2017 only after 125 posts being created to accommodate them and in addition thereto, it has been stated that considering the creation of posts for their regularization and the OM dated 21-08-2010 of the Finance Department for adoption of the new defined Contribution Pension Scheme in the State, it may not be possible for the State Government to extend the benefits of their past service for the purpose of pensionary benefits.

[5] It is not in dispute that the Hon'ble Gauhati High Court, Imphal Bench, while disposing of the CR No.523 of 1995 vide its judgment and order dated 29-09-1997, directed the State Government to frame a scheme and regularize the services of the Casual/ Muster roll employees including the petitioners and it was made clear in the said judgment and order that the benefit of the past services of those employees/ workers should be counted for the purpose of their retiral service benefits and for the purpose of absorption. It appears that no appeal was preferred by the State Government against the judgment and order dated 29-09-1997 and therefore, it had attained finality. It may be noted that when an order is passed by an appropriate and competent court, the parties therein are bound by it, as long as it is not set aside or stayed by an appellate court. In our constitutional scheme, the judiciary is enjoined with the power and jurisdiction to interpret law and the court which is an integral part of it, is to decide the disputes. If the order of a court need not be implemented, the purpose of passing the order will stand defeated and it will lead to a constitutional crisis, in which event there will be turmoil in the society. Moreover, in WP(C) No. 432 of 2010 the Hon'ble Gauhati High Court, Imphal Bench while disposing it of vide its order dated 21/12/2010, directed for full implementation of the directions contained in the judgment and order dated 29/09/1997. An appeal being WA No.6 of 2015 preferred against it by the State Government was rejected on 10-04-2015 reaffirming the earlier order dated 21/12/2010 of the learned Single Judge and a petition for special leave to appeal being SLP No.16940 of 2015 filed before the Hon'ble Supreme Court challenging the judgment and order dated 10/04/2015 was also dismissed by the Hon'ble Supreme Court on 08/07/2015. Therefore, the directions contained in the judgment and order dated 29-09-2017 need to be implemented at any cost by the State Government because a right for enjoying the retiral benefits after counting their past services, had accrued to the petitioners.

[6] Relying upon the averments made in the affidavit, it has been submitted by the learned Government Advocate that since the posts were created in the year, 2017 and the petitioners were regularized vide order dated 12-06-2017 with prospective effect, it was not possible for the State Government to grant the benefits as directed by the Court. The second argument advanced by him is that as the earlier pension system had been done away with and in its place, the new defined Contribution Pension Scheme was adopted sometime in the year, 2005,

there was no question of granting benefits to the petitioners under the old pension scheme. His contentions appear to be correct in a normal case but it is not so in the present case where the directions of the court which attained finality, were/ are in operation, because of which certain rights to enjoy retiral benefits by counting their past services, had accrued to the petitioners. It is the problem created by the State Government and therefore, it is for the State Government to solve it. Had the posts being created sometime in the year, 1998/1999, the present controversy would not have arisen but since the State Government failed to do that, it had continued to arise till date. This problem will continue to arise, as long as the directions are not implemented by the State Government or the petitioners do not relinquish it. In view of the aforesaid, the State Government has no option but to implement it.

[3] Since the issue involved herein is covered by the said judgment and order dated 02-04-2019, the instant writ petition is being disposed in terms thereof.

[4] In view of the above, the instant writ petition is allowed with the direction that the State Government shall comply with the judgment and order dated 29-09-1997, to its fullest extent, passed by the Hon'ble Gauhati High Court, Imphal Bench in CR No.523 of 1995 within three months from the date of receipt of a copy of this judgment and order. There shall be no order as to costs.