

(2005) 08 GAU CK 0057
In the Gauhati High Court

Kongbrailatpam Babita Devi

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 29-08-2005

Acts Referred:

Citation : (2005) 08 GAU CK 0057

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

Bench : Single Bench

Advocate : Jalal Uddin, R.K Milan, Advocates appearing for Parties

Judgement

1. Heard Mr. R.K. Milan, learned counsel for the petitioner as well as Md. Jalal, learned G.A for the respondents.

2. Considering the innocuous prayer made in the present writ petition, this writ petition is disposed of at this stage with a simple direction. According to the petitioner, her mother Smt. Nungshibi Devi was serving as primary teacher in Lamjaotongba L.P. School. But she could not continue her service as a teacher on account of her prolonged illness. She applied for retirement from service on medical ground.

3. Her case for retirement on medical ground had been considered and recommended by the Medical Board in its meeting held on 16.2.2001. On the recommendation of the State Medical Board, the Director of Medical and Health Services, Govt. of Manipur issued a certificate that the petitioner's mother Smt. Nungshibi Devi as permanently incapacitated for further service of any kind in the Department to which she belongs in consequence of DBS with Psychosis (Paranoid). Accordingly, the Director of Education (S), Govt. of Manipur issued an order being No. 46/19/93ED (V) (II) Imphal dated 30.7.2001, the petitioner's mother is allowed to retire from service on invalid ground within purview under Rules 38(2) of Central Civil Services Pension Rules with effect from 16.2.2001.

4. Learned counsel for the petitioner further submits that there is a scheme for appointment under the dieinharness inharness scheme prepared by the

Government of Manipur. According to the petitioner, the Office Memorandum dated 13.1.1999 for appointment under the dieinharness inharness scheme covers the present writ petition. The relevant portion of the said Office Memorandum dated 13.1.1999 which reads as follows:

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?1. The existing paras (2),(3) & (9) of the O.M. of even number dated 1/12/95, shall be substituted by the following paras:

(i) The benefit of compassionate appointment under the diein harnessinharness scheme shall be extended and restricted to only one of the dependents viz., wife, husband, real son and real daughter of the Government servant who dieinharness in harness, leaving his/her family in immediate need of assistance and when there is other earning member in the family. In exceptional cases when the Government is satisfied that the condition of the family is indigent and is in great economic distress, the benefit of compassionate appointment may be extended to a widow/son/daughter/adopted son/ adopted daughter of a Government servant who retired on the following medical grounds viz. loss of sight, disability due to paralysis, illness due to cancer and mental disorder, before attaining the age of 55 (fiftyfive) years strictly on the following conditions:

(a) The adopted son/adopted daughter shall be eligible for appointment under the scheme only when the Government servant in question does not have any son or daughter and if such adoption is lawful and valid under the personal law of such Government servant and the particulars of the adopted son/ adopted daughter are duly recorded in the service book/card of the Government servant concerned.

(b) That. the case is examined and duly recommended by a Medical Broad constituted for the purpose and represented by the Administrative Department and the Head of Department concerned.?

5. After the retirement of the petitioner's mother on medical ground, the petitioner submitted an application dated 29.8.2001 to the Director of Education(S) Govt. of Manipur for appointing her in any suitable post or Asstt. teacher under the said scheme for appointment under the dieinharnessin harness scheme. Necessary inquiry was held by the concerned Director of Education (S) and ultimately, the Director of Education(S) Govt. of Manipur under his letter being No.46/18/2001ED (V) Imphal dated 2.5.2002, requested the Commissioner (Education/S), Govt. of Manipur to obtain necessary approval of the Government of Manipur for appointment of the petitioner as primary teacher under the dieinharnessinharness scheme. A copy of the said Director of Education(S) is available at AnnexureA/9 to the present writ petition. For the reasons not known to the petitioner, her case for appointment under the dieinharnessinharness scheme is still pending with Government. Learned counsel for the petitioner further submits that a person similarly situated person with the present petitioner had already appointed under the order of the Controller of

Technical Education, Manipur, Imphal dated 30.12.2002 (A copy of which is available at AnnexureA/11 to the present writ petition).

6. On considering the submission of the learned counsel for the petitioner as well as from perusal on record more particularly Office Memorandum dated 13.1.1999, this writ petition is disposed of with the direction to the respondents to consider the petitioner's case for appointment under the related scheme to any suitable post commensurate with her educational qualification subject to her seniority position in the list of the applicants for appointment under the dieinharness scheme maintained by the concerned Department and also subject to her eligibility under the relevant dieinharness scheme as expeditiously as possible preferably within a period of 4(four) months from the date of receipt of this Judgment and order.

7. To the extent mentioned above, this writ petition is allowed.