
(2000) 06 GAU CK 0029
In the Gauhati High Court
Case No : Writ Petition (C) No. 774 of 2000

L. Chihanpam and Another	Vs	APPELLANT
State of Manipur and Others		RESPONDENT

Date of Decision : 28-06-2000

Acts Referred:

Citation : (2001) 2 GLT 195

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

Bench : Single Bench

Advocate : Joychandra, for the Appellant; Bidyamani, GA, for the Respondent

Judgement

1. Heard Mr. Ch. Joychandra learned counsel for the petitioner. Heard also Mrs. Bidyamani, learned Govt. Advocate.

The writ petitioner No. 1 while serving as Assistant Graduate Teacher was engaged as Assistant Inspector of Schools against the regular incumbent who retired from service with immediate effect vide order dated 5th December, 1994. The petitioner No. 2 was also given similar order against the vacancy caused by promotion of the regular incumbent as Headmaster as Assistant Inspector of Schools while serving as Assistant Graduate Teacher vide order dated 13th June, 1995. Mr. Joychandra, learned counsel for the petitioners submits that the writ petitioners have already put in service as Assistant Inspector of Schools for five years continuously and they have completely given up teaching. Though they have not been regularly appointed as Assistant Inspector of Schools, they have been rendering services as is done by regularly appointed A.Is. It is also contended that in fact the petitioners are eligible to hold the post of A.Is inasmuch as, they fulfil all the conditions prescribed in this regard though in the present petition no such claim has been made.

It is also submitted that even teachers who are directed to look after Schools on transfer or on promotion or on retirement of regular Headmasters, are also allowed to enjoy the status and pay and allowances of regularly appointed

Headmasters in various cases. On perusal of the orders issued in respect of the petitioners enabling them to work as AIs, there can be no doubt that they have put in five years continuous service discharging the work of inspection as Assistant Inspector of Schools. If that be so, in my view, there is no reason to deny pay and allowances which are payable to regularly appointed AIs of the same Department inasmuch as, the petitioners are discharging the duties and responsibilities of Assistant Inspector of Schools. In other words, there is no difference as far as duties and responsibilities are concerned whether they are regularly appointed or are otherwise engaged or given charge of Assistant Inspector of Schools. Relying on Ramakant Shripad Sinai Advalpalkar Vs. Union of India and others, Mrs. Bidyamani, learned Govt. advocate submits that the petitioners are only continuing to render services as AIs and they should be said to hold their substantive lower post. It is submitted that the petitioners are rendering services as stop gap arrangement. It appears this case of Goa cannot be said to be on the same footing with the present case. In the present case the petitioners have been rendering services as AIs continuously and uninterruptedly for more than five years and that too against vacancies caused by retirement and by promotion of the regular incumbents. It cannot be said that utilisation of services of the writ petitioners for more than five years is stop-gap-arrangement. Further I may state that claim of the writ petitioners is simple that since they are rendering services as Assistant Inspector of Schools, they are entitled to be paid salary and allowances which are prescribed for the post of AI. In other words, having rendered service as AIs for more than five years, there is no justification that writ petitioners should continue to get the lower scale of Assistant Graduate Teachers whereas they have been rendering services as Assistant Inspector of Schools.

In the result, this petition is disposed of as follows:-

- (1) The writ petitioners shall stand entitled to get the scale of pay enjoyed by regularly appointed AIs.
 - (2) They shall be entitled to the scale of pay of AIs with effect from the initial dates of appointment/engagement i.e. with effect from 5th December, 1994 in respect of writ petitioner No. 1 and 13 June, 1995 in respect of writ petitioner No. 2.
2. This order shall be carried out within 3(three) months from the date of receipt of this order.