
(2015) 05 MAN CK 0002
In the Manipur High Court
Case No : Writ Petition (C) No. 744 of 2013

L. Palandro Singh

APPELLANT

Vs

The State of Manipur and Others

RESPONDENT

Date of Decision : 22-05-2015

Acts Referred:

Constitution of India, 1950 — Article 300-A

Citation : (2015) 05 MAN CK 0002

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : M. Hemchandra, for the Appellant; Sobhana, Govt. Advocate, K.R. Pamei, Advocate on behalf of S. Rupachandra, ASG, Advocates for the Respondent

Final Decision : Allowed

Judgement

Kh. Nobin Singh, J.—Heard Shri M. Hemchandra, learned counsel appearing for the petitioner; Smt. Th. Sobhana, learned Government Advocate appearing for the respondent Nos. 1 and 2 and Shri K.R. Pamei, learned counsel appearing on behalf of Shri S. Rupachandra, learned ASG for the respondent No. 3.

2. Being aggrieved by the failure on the part of the respondents to release payment of pension, the present writ petition has been filed by the petitioner praying for appropriate order or direction for payment of pension/retirement benefits.

3.1. According to the petitioner, he was initially appointed to the post of Assistant Agricultural Officer in the Department of Agriculture, Manipur vide order dated 31-12-1973 issued by the Director of Agriculture and was promoted to the post of Agriculture Officer vide order dated 06-11-1979 issued by the Secretary (Agriculture). On the recommendation of a D.P.C. held on 28-07-1999, the petitioner was appointed by promotion to the post of Deputy Director on 02-08-1999 and was thereafter appointed on promotion to the post of Joint

Director of Agriculture vide order dated 15-07-2008 issued by the Commissioner (Agriculture) and was further appointed on promotion to the post of Additional Director of Agriculture, Manipur vide order dated 15-12-2008 issued by the Commissioner (Agriculture). On the recommendation of a D.P.C. held on 27-05-2010, the petitioner was appointed on promotion to the post of Director of Agriculture, Manipur, vide order dated 08-06-2010 issued by the Under Secretary (DP), which he continued to hold till his retirement on attaining the age of superannuation with effect from 30-11-2012 vide order dated 30-11-2012 issued by the Deputy Secretary (DP), Government of Manipur.

3.2. After his retirement from service, the petitioner addressed a letter dated 10-04-2013 to the Commissioner (Agriculture), Government of Manipur informing that all actions in respect of his pension were being held up and that the same be straightened by his good office followed by another letter dated 05-06-2013 informing that all pension cases including that of the petitioner, were being kept untouched and that the present Director had refused to put his signature on the charge TR - 1 without any reason thereof. At that juncture, the Accountant General addressed a letter dated 20-06-2013 to the Chief Secretary, Manipur expressing the constraints being faced by its office particularly in regard to late receipt of pension papers, incomplete documents etc. and on receipt of the said letter dated 20-06-2013, the Chief Secretary, Manipur advised the Heads of all Departments to take corrective action on the issues raised by the Accountant General.

3.3. The main grievance of the petitioner is that despite all relevant documents having been submitted by him, the respondents have kept the matter pending without assigning any cogent reason. It is submitted by Shri M. Hemchandra, learned counsel appearing for the petitioner that even though the O.M. dated 06-12-2007 provides for the procedure of timely payment of pension and all heads of Departments shall follow the schedule in the interest of the retired employees, the respondents have not taken appropriate actions towards payment of his pension. On the other hand, the learned Government Advocate, relying upon the affidavit-in-opposition filed on behalf of the respondents, has submitted that the process of petitioner's pension could not be completed for two main reasons - (a) the pension process is pending for want of documents namely no Due Certificate of electricity consumption charge and Last Pay Certificate etc. and (b) a vigilance Case bearing No. 7/SP-V/213 is pending against the petitioner in connection with his involvement in fraudulent withdrawal of State Plan Fund. It is further submitted by the Government advocate that no document of handing over charge in TR - 1 form is available in the Department. An affidavit on behalf of the respondent No. 3 has also been filed stating therein that for want of pension papers from the State Government, the respondent No. 3 was unable to examine and issue necessary authorities of retirement benefits and that as and when the same is received in complete shape, necessary authorities will be issued by it.

In the rejoinder filed by the petitioner, it is stated that the petitioner has submitted all relevant papers on the basis of which the payment in respect of Insurance Scheme and G.P.F. has been received by the petitioner and that no Vigilance Case is pending against him.

4. It is well settled that the pension is not a bounty but is hard earned benefit for long service rendered by the employee which cannot be withheld or taken away at the sweet will of the State Government. In the case of State of Jharkhand and Others Vs. Jitendra Kumar Srivastava and Another, (2013) 9 AD 48 : AIR 2013 SC 3383 : (2014) 117 CLT 945 : (2013) 139 FLR 74 : (2013) 11 JT 351 : (2013) LabIC 3674 : (2013) 5 LLN 91 : (2013) 4 LLN 56 : (2013) 10 SCALE 310 : (2013) 12 SCC 210 : (2013) 4 SCT 429 : (2013) 114 SLJ 370 : (2013) AIRSCW 4749 : (2013) 6 Supreme 5 , the Hon"ble Supreme Court referring to its earlier decisions, inter-alia, has held that it is an accepted position that gratuity and pension are not bounties and an employee earns these benefits by dint of his long, continuous, faithful and unblemished service. The Hon"ble Supreme Court has further held that a person cannot be deprived of his pension without the authority of law, which is the constitutional mandate enshrined in Article 300-A of the Constitution.

5. As is evident from the order dated 30-11-2012 issued by the Deputy Secretary (DP), Government of Manipur, it is not in dispute that the petitioner has retired from service on attaining the age of superannuation with effect from 30-11-2012 and in consequence thereof, the petitioner is entitled to his pension in accordance with. The only stand that has been taken by the State Government is that the petitioner has not submitted all the relevant documents and in particular, the documents as mentioned in para 5 and 6 of the counter affidavit and that a vigilance case is pending. So far as the documents mentioned in para 5 and 6 of the counter affidavit are concerned, the same are now available with the Special Secretary (Agriculture), Government of Manipur as is evident from the letter dated 08-05-2015 addressed to him by the Director of Agriculture, Government of Manipur enclosing therewith copies of the said documents. A copy of the letter dated 08-05-2015 along with its annexure has been produced before this court and the same has been placed on record.

As regards the pendency of a case being No. 7/SP-V/2013 before the State Vigilance Commission, it is submitted by the learned counsel for the petitioner that the said case is no longer pending before the State Vigilance Commission and his contention seems to be correct from the perusal of various documents produced by him as well as by the learned Government Advocate during the course of hearing. The first two documents that can be referred to, are the letters dated 13-12-2013 addressed to the Commissioner (Agriculture), Government of Manipur by the Director of State Vigilance Commission- one, recommending necessary steps for initiating department enquiry against the seven officers including the petitioner for awarding major penalty and second, recommending that the enquiry report be placed before the High Power

Committee to recover a sum of Rs. 26,04,133/- from the officers mentioned therein under the provisions of Manipur Public Servants' Liability Act, 2006. Copies of these two letters were produced by the learned Government Advocate along with a copy of the letter dated 13-04-2015 addressed to her by the Superintendent of Police/Vigilance wherein it is categorically stated that the enquiry of the said case was completed and on the basis of the findings of the enquiry, the State Vigilance Commission had already submitted its recommendations as stated above. At this juncture, copies of two documents produced by the learned counsel appearing for the petitioner are relevant and important for purpose of deciding the issues involved herein. The first document is a copy of the minutes of the meeting of the High Power Committee held on 02-12-2014 under the Chairmanship of the Chief Secretary, Government of Manipur wherein the Committee decided as under:

"(a) Enquiry under the Manipur Public Servants' Liability Act, 2006 shall be closed in respect of officers for which full recovery has been made except in respect of the following officers:

(i) Shri P. Angouba Singh, the then DAO, Thoubal as well as the then DDO/Kharungpat;

(ii) Shri Y. Rajen Singh, the then TO, Thoubal;

(iii) Shri L. Ibomcha Singh, the then STO, Kakching.

(b) The outstanding amount of Rs. 8,46,840/- shall be recovered from the salaries of Shri P. Angouba Singh, the then DAO, Thoubal/DDO, Kharungpat, The Administrative Department of Agriculture shall take necessary steps to ensure that the due salaries of Shri P. Angouba Singh is paid to him immediately and recoveries shall be made from the due salaries and the balance, if any, from the retirement gratuity, as per his undertaking. Administrative Department shall submit an action taken report in this regard to the Chairman, HPC by 07-01-2015.

(c) The concerned Administrative Department (Finance/Agriculture) shall take up necessary steps for taking disciplinary actions against all the alleged officers, although the enquiries against them have been closed under the Manipur Public Servants' Liability Rules, 2006."

The other document is a copy of the order dated 20-01-2015 issued by the Deputy Secretary (Agriculture), Government of Manipur, the operative portion of which is given as under:

"6. Now, therefore, the Governor of Manipur is pleased to award minor penalties in the form of withholding of promotion in respect of all the above named officers for a period of 2 (two) years only with effect from the date of issue of this order as may be applicable to each of them."

6. It is surprising to note that either in the proceedings before the High Power

Committee under the provisions of the Public Servants' Liability Act, 2006 or in the departmental enquiries conducted by the Principal Secretary (DE), Government of Manipur on the recommendation of the State Vigilance Commission, the name of the petitioner was not referred to at all nor was any penalty imposed against the petitioner. The stand of the State Government indicated in its affidavit, is no longer available to it and the State Government through its Advocate was unable to produce any document to show that any departmental proceeding initiated against the petitioner in accordance with law, is still pending and if that be so, there is no reason as to why the petitioner be denied his pension and retiral benefits, if any. Considering the overall facts and circumstances, this court is of the view that the present case is a fit case where this court can issue an appropriate direction for payment of pension or retiral benefits, if any, to the petitioner.

7. With the above observations, the present writ petition is allowed and it is directed that the respondents shall take appropriate and necessary steps and pay the petitioner his pension and retiral benefits, if any, within a period of three months from the date of receipt of a certified copy of this judgment and order. There shall be no order as to costs.