
(2008) 05 GAU CK 0059
In the Gauhati High Court

R. Dosanga and Another

APPELLANT

Vs

State of Mizoram and Others

RESPONDENT

Date of Decision : 14-05-2008

Acts Referred:

Citation : (2008) 2 GLT 863

Hon'ble Judges : H. Baruah, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

H. Baruah, J.—This writ petition has been filed by the petitioners for setting aside the letter No.A.41014/2/02-HFW dated 01.11.2006 and letter No. C.11018/1/2005-DHS/MPW dated 13.11.2006 and for a further direction to the respondents to pay arrear pay and allowances and other benefits to the petitioners in view of their reinstatement in the service by the respondents.

2. Heard Mr. Ricky Gurung, learned Counsel for the petitioners. Also heard Mrs. Helen Dawngliani, learned Govt. Advocate for the respondents.

3. Mr. Ricky Gurung, learned Counsel for the petitioners has submitted that the writ petitioners were initially appointed on 04.09.1964 as Surveillance Workers in the office of the Unit Officer, NMER Aizawl. Their services were terminated vide order dated 16.04.1966 by the State Malarialogist, Assam, Shillong until normal movement in the district possible and services were restored. Normalcy restored after signing the Peace Accord on 30.06.1986. The Government of Mizoram thereafter formulated a scheme for reinstatement of the services of the persons/ employees, whose services were terminated due to alleged links with the MNF vide communication dated 24.05.1990, 05.02.1993 and 27.08.1993. Being known of the formulation of such a scheme by the Government the writ petitioners submitted their application for reinstatement but unfortunately their cases were not considered and rejected. Finding no alternative they approached this Court by filing writ petitions being W.P.(C) No. 81 of 2001 and W.P.(C) No. 82

of 2001 which were disposed of on 09.04.2003 with direction to the respondents authority to consider the representation to be filed by them. Despite filing of the representations their cases were not considered by the Government and being aggrieved thus both the petitioners approached this Court seeking appropriate relief by filing writ petition No. 60 of 2004. This Court in the said writ petition, vide order dated 02.06.2005 issued a direction to the State respondents to consider the petitioners' case for reinstatement in terms of the observations made and to pass necessary orders within a period of three months from the date of the judgment and order. It was further directed that the petitioners should produce a certified copy of the order along with a copy of the writ petition before the authorities for compliance.

4. Pursuant to the said order passed by this Court petitioners were reinstated to the post of Health Worker (M) in the scale of Rs. 4500-125-7000/- plus other allowances as admissible under the rules with effect from 17.12.1990(Annexure-3). This order was passed on 17th day of February 2006. In the order aforesaid, it is specifically stated that the period from the date of dismissal from the service to the date of reinstatement shall be treated as a period on duty only for the purpose of determination of pensionary benefits and fixation of pay but not for any other purposes like arrear of pay and allowances, seniority etc. Pursuant to this reinstatement order both the petitioners joined in their respective services and discharged their duties as such. Both the petitioners went on superannuation. They submitted representation before the respondents authority for payment of arrear pay and allowances together with other benefits at least from the date of 17.12.1990. The respondents authority did not consider their case.

5. Mr. Ricky Gurung, learned Counsel for the writ petitioners in support of their claim submitted that since the Government of Mizoram reinstated both the writ petitioners to the respective services vide order dated 17.02.2007(2006), despite the restraintment incorporated therein in the context of payment of arrear pay and allowances etc., both the writ petitioners are still entitled to have such benefits from 17.12.1990. It is further submitted by him that the Government of Mizoram after return of normalcy to the State formulated the scheme for reinstatement of the services of the persons/employees whose services were terminated on account of having nexus with the MNF and as, per the scheme some employees were reinstated by the Government and arrear pay and allowances were paid to them, both the petitioners, according to him though terminated from services due to disturbance prevailing at the relevant point of time, they are also entitled to have the same benefit in the line of those employees whose services reinstated having link with MNF. It is according to Mr. Gurung, there is no reason on the part of the respondent authorities not to consider their representation for arrear pay and allowances.

6. Mrs. Helen Dawngliani, learned Govt. Adv. relying on the statement incorporated in the affidavit-in-opposition filed on behalf of the respondents has

submitted that the Government of Mizoram formulated its scheme for reinstatement of those persons/employees only whose services were terminated or removed because of their alleged links with the activities of MNF. Since services of the writ petitioners were not terminated for having alleged link with the MNF, the petitioners do not fall with the scheme formulated by the Government of Mizoram and the petitioners, therefore, are not entitled to have the benefits of arrear pay and allowances from the date of their reinstatement rather they will be entitled to have their pensionary benefits from that date. Mrs. Helen Dawngliani while submitting draws the attention of this Court to the observation of this Court rendered in the judgment vide order dated 02.06.2005 in W.P.(C) No. 60 of 2004 and put emphasis that the petitioners were terminated from service only because of abnormal situation prevailing at the relevant point of time with condition of restoration of service when normalcy returns.

7. It is further submitted by Mrs. Helen Dawngliani that when the Government of Mizoram did not consider such a scheme alike in respect of employees whose services were terminated due to abnormal situation prevailing at that point of time, claim of the writ petitioners for arrear pay and allowances is not justified. In the reinstatement order dated 17.02.2006 a stipulation is made that the employees (writ petitioners) would not be entitled to arrear pay and allowances etc. and other benefits. Over and above, petitioners are no longer in their service. Both went on superannuation, which is, however, not denied by Mr. Ricky Gurung, counsel for the petitioners.

8. Mr. Ricky Gurung, learned Counsel for the petitioners further submits that some of the employees similarly situated were given benefits of arrear pay and allowances and this being the position the present writ petitioners are also to be equally treated and no discrimination should prevail over. However, Mr. Ricky Gurung in order to substantiate this claim failed to place any document whatsoever that the Government of Mizoram (concerned department) allowed such benefits to such employees. In reply to a query Mr. Ricky Gurung express his inability to place such document before the Court for consideration. Though some documents showing payments of back wages to some employees are available or in other words annexed with the writ petition, same are not discernible to hold as such.

9. The appropriate authority while ordering reinstatement of the writ petitioners with effect from 17.12.1990 considered to have the pensionary benefits only and not other benefits to the writ petitioners. When the Govt. of Mizoram does not have such a scheme for offering such benefits to those employees who were terminated and re-instated afterwards when normalcy prevailed, this Court does not see any merit in the writ petition. Further the writ petitioners also failed to place example as claimed that some cases of like nature were considered and allowed. In the result, the writ petition is dismissed. However, with no cost.