

(2005) 08 GAU CK 0005
In the Gauhati High Court

Sanasam Babu Singh

APPELLANT

Vs

Accountant General, Manipur at Imphal and Ors.

RESPONDENT

Date of Decision : 25-08-2005

Acts Referred:

Citation : (2005) 08 GAU CK 0005

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

Bench : Single Bench

Advocate : C.Kamal, Babloo Singh, N.P.C.Singh, K.Kumar Singh, Advocates
appearing for Parties

Judgement

1. By these writ petitions (9 in numbers) the petitioners are assailing the order of the Senior Account Officer (GOE) of the Office of the Senior Deputy Accountant General (A & E), Manipur, Imphal for recovery of some amount stated to be the overpayment made to the petitioners as their pay and allowances for a certain period by some installments in N.B. portion of the impugned pay slips of the writ petitioners basing on the similar question of facts and law. As such, for the convenience of not only for the parties but also for this court, these writ petitions were heard jointly for disposal by a common judgment and order. Accordingly, these writ petitions are being disposed of by a common judgment and order. However, facts of each of the writ petitions will be mentioned at the appropriate stage of this common judgment and order.

[2] As stated above, facts of all the writ petitions are similar; and as such, facts of one of the writ petition i.e. Writ Petition (C) No. 454 of 2004 is considered in detail so as to avoid repeated discussion of same facts in all the writ petitions. The writ petitioner of WP(C) No. 454/04 is eligible for appointment as Lecturer in the Government College of the Government of Manipur. Under the order of the Governor of Manipur being No. 3/10/86 SE (S) Imphal the 2nd September, 1987 the petitioners and 107 others were appointed as Lecturers in the Government Colleges and posted them in the colleges for the subjects shown against their names as an interim arrangement from the date he/she join duties in the

exigencies of service in public interest under the provisions of M.P.S.C (Exemption from consultation) Regulations, 1972. In pursuance of the said order of the Government of Manipur dated 2.9.1987, the petitioner joined as Lecturer in the Government College for the said period of 6 (six) months. The term of the temporary appointment of the petitioner was extended from time to time continuously up to 5.10.1990 without any break under various extension orders of the Government of Manipur. The particulars of the said various extension orders of the Government of Manipur are given hereunder:

?Particulars of extension orders Period extended

1. No. 3/10/86SE(S)Pt. from 1.3.88 to 31.8.88 Dt.30.7.1988
2. No. 3/10/86SE(S) Pt from 1.9.88 to 28.2.89 Dt.14.10.88
3. No. 3/10/86SE(S) Pt from 1.3.89 to 31.8.89 Dt.4.3.89
4. No. 3/10/86SE(S) Pt. from 1.9.89 to 30.11.89 Dt.18.9.89
5. No. 2/2/79S/SE(V)(2) from 1.12.89 to 28.2.90 Dt.15.1.90
6. No. 2/6/85S/SE(OO) from 1.3.90 to 31.3.90 Dt.4.4.90
7. No. 2/6/85S/SE(II) from 1.4.90 to 31.8.90 Dt.15.9.90
8. No. 3/6/79S/SE(V)(3) from 1.9.90 to 5.10.90 Dt 15.12.90?

[3] On 5.10.1990 the Government of Manipur issued an order declaring that adhoc appointment of the petitioners and 101 others would not be extended beyond 5.10.1990. It is pertinent to mention that in the said order of the Government of Manipur dated 5.10.1990 it had been mentioned very clearly that the cases of these adhoc/substitute/officiating/temporary Lecturers of the Government colleges and other persons similarly situated shall be considered for appointment irrespective of their being overaged and subject to fulfillment of other conditions as and when additional posts are available for recruitment.

[4] It is said that as a result of the nonextension of the ad hoc service of the petitioner and others there was acute shortage of Lecturers in the Government colleges and thereby causing academic disruption and mass protest from the student community. The Government of Manipur in the interest of the student community in particular and public in general had to issue a number of orders bearing No. 2/6/79S/SE (S) Pt dated 13.12.1991 for reemploying several terminated Lecturers including the petitioner in order to avoid academic disruption of a large number of students of the Government colleges on ad hoc basis for six months. Under the said order of the Government of Manipur dated 13.12.1991 the petitioner rejoined his service on 14.12.1991 as Lecturer in Chemistry in the Kha Manipur Government College.

[5] The said reemployment order dated 13.12.1991 was further extended from time to time under the orders of the Governor of Manipur viz: 1) No. 1/48/91S/SE (i) Pt1 for the period from 14.6.1992 to 30.6.1993 and 2) No. 1/4/91S/SE(i)

Pt1 for the period from 1.7.1983 to 25.11.1993. Thereafter on the recommendation of a special DPC (Departmental Promotion Committee) which held its meeting on 12.3.1993, the Government of Manipur issued order being No. 1/48/91S/SE (Pt) dated 26.11.1993 for regularizing the petitioner's ad hoc service as Lecturer in Chemistry and posted in the Kha Manipur Government College. Under another order of the Government of Manipur, the petitioner was transferred from the said Kha Manipur Government College and posted in the Lilong Haoreibi Government College where he is now working from the month of May, 1996.

[6] It is also the case of the petitioner that the petitioner had rendered service as Lecturer in Chemistry on temporary/ad hoc basis continuously from 22.9.1987 to 5.10.1990 in the first spell and again from 14.12.1991 to 25.11.1993 in the second spell which was followed by the regularization under the said order of the Government of Manipur dated 26.10.93. Admittedly, there was a break period, i.e. 6.10.90 to 13.12.1991 in the service of the petitioner as Lecturer in the Government College. In partial modification of the said order of the Government of Manipur being No. 4/33/95S/SE dated 20.11.1995 and its corrigendum dated 26.2.1996 No. 1/48/91S/SE (ii) dated 17.1.1996 and No. 1/48/91S/SE (i) PtI dated 17.2.1996 and its corrigendum dated 16.4.1996, the Governor of Manipur was pleased to order the linkup/condonation of the preinterruption service, i.e. first and second period of ad hoc service upto regularization of the petitioner and 21 other Lecturers for the purpose of pensionary benefit but the period of interruption preceding the second spell of ad hoc service shall not count as qualifying service and in regard to protection of pay they are entitled to normal increment earned during the first spell of their service but the period of interruption shall not count for increment.

[7] The petitioner further submits that the above two benefits are two distinct and separate benefits: I) relating to granting of qualifying service for the purpose of pensionary benefits which is a power derived from Rule 26 of the CCS (Pension) Rules, 1972 and the other, ii) granting of advance/premature increment as initial pay which is a power derived from FR 27. Because of the said order of the Government of Manipur dated 22.7.1997, the petitioner was given senior scale of Lecturers w.e.f. 1.12.1996 and, accordingly, senior scale of pay and allowance had been paid to the petitioner for the period from 14.12.1991 to 30.11.1996.

[8] Admittedly, the said order of the Government of Manipur dated 22.7.1997 has not yet been modified or superseded by a subsequent order of the Government of Manipur, and the said order dated 22.7.1997 is still in force. It is the case of the petitioner that the Senior Deputy Accountant General (A & E), Imphal, Manipur is neither appellate authority nor the Reviewing Authority of the said order dated 22.7.1997. Over and above, the Government of Manipur is the competent authority for passing the said order dated 22.7.1997 for linking up/condonation of the pre interruption service of the petitioner and others i.e. first

and second period of service up to regularization and also for granting the said two benefits to the petitioner and others.

[9] After a lapse of about 6/7 years from the implementation of the said order of the Government of Manipur dated 22.7.1997, the respondent nos.1 and 2 without giving any reason and also without issuing any show cause notice to the petitioner issued pay slip dated 17.12.2003 by inserting N.B on the pay slip itself to the effect that "overpayment of pay and allowances w.e.f. 14.12.1991 to 30.11.96 amounting to Rs.27,171/ may be recovered from his pay and allowances w.e.f. 1.12.03 @ Rs.3000/ p.m. with 9 installments and last installments being Rs.3171/." The petitioner being aggrieved by the said pay slip dated 17.12.2003 filed the present writ petition. The main ground for challenging the impugned pay slip in the present writ petitions are that 1) the impugned pay slip amounts to setting aside or over riding the said order of the Government of Manipur dated 22.7.1997; 2) the impugned pay slip amounts to inflicting penalty upon the petitioner and the same was issued without issuing any show cause notice to the petitioner; 3) the impugned pay slip dated 17.12.2003 having the civil consequences had been issued without giving any reason; 4) according to law laid down by the Apex Court that higher scale given erroneously to the employees without any fault of theirs shall not be recovered, 5) the senior Dy.Accountant General (A & E), Manipur, Imphal is neither appellate authority nor the reviewing authority of the said order of the Government of Manipur dated 22.7.1997 and 6) quasi judicial decisions cannot be reviewed/reopened in the absence of statutory provisions enabling to do so.

[10] The respondents had filed their Affidavit in opposition. In their Affidavit in opposition the respondents did not deny that the Sr.Dy.Accountant General (A & E), Manipur, Imphal and Sr.Accounts Officer (GOE) of the office of the Sr.Dy.Accountant General (A & E), Manipur are neither appellate nor reviewing authority of the said order of the Government of Manipur dated 22.7.1997. But in their Affidavit in opposition it is stated that a further review of the Government of Manipur order dated 22.7.1997 it has been found that the order itself could not be implemented as it is inadmissible under the prevailing Government Rules and Regulations. Further under FR 27 only the authority who has the power to create a post in the same cadre on the same scale of pay is competent to grant premature increment. But the respondents are not denying that the Government of Manipur has the power to create posts of the Lecturers of the Government colleges and also competent to grant premature increment.

[11] In support of the rival contentions, the learned counsel for the petitioner had placed heavy reliance on the following case laws:

1. Km.Neelima Mishra Vs Dr.Harinder Kaur Paintal & Ors: AIR 1990 SC 1402;
2. S.N.Mukherjee Vs Union of India : AIR 1990 SC 1984;
3. Shyam Babu Verma & Ors Vs Union of India & Ors: (1994) 2 SCC 521;

4. Canara Bank & Ors Vs Debasis Das & Ors: (2003) 4 SCC 557;
5. State of Madhya Pradesh Vs Haji Hasan Dada: AIR 1966 SC 905;
6. State of Orissa Vs Dr (Miss) Binapani Dei & Ors: AIR 1967 SC 1269;
7. Patel Chunibhai Dajebha Vs Narayanrao Khanderao Jambekar & Ors : AIR 1965 SC 1457 and
8. All Manipur Downgraded teachers" Assn Vs State of Manipur & Ors: W.A No. 57 of 1997 (D.B.). On the other hand, learned counsel appearing for the respondents placed reliance on the following case laws:
 - (1) Aligarh Muslim University & Ors Vs Mansoor Ali Khan: (2000) 7 SCC 529;
 - (2) Kishan Chandra Joshi & Ors etc Vs Union of India & Ors: AIR 1991 SC 284.
 - (3) State of West Bengal & Ors Vs Aghore Nath Dey & Ors: (1993) 3 SCC 371 and
 - (4) Dr.Surinder Singh Jamwal & Anr Vs State of Jammu & Kashmir & Ors: AIR 1996 SC 2775.

[12] The Apex Court in (i) Sarva Shramik Sangh, Bombay Vs Indian Hume Pipe Co Ltd & Anr: (1993) 2 SCC 386 held that judgment is to be understood in the facts and circumstances of the case without adding anything to it and no more should be read into it than what it actually says. (ii) In Union of India & Ors Vs Dharmawati Devi & Ors: (1996) 6 SCC 44 the Apex Court held that any essence of the decision and its ratio is binding and not every observation found therein. Every decision must be read as applicable to the particular facts proved. A precedent long recognition matured into rule of stare decisis. (iii) In General Manager Northern Railway & Anr Vs Savesh Chopra: (2002) 4 SCC 45 the Apex Court held that a decision of the Supreme Court is only an authority for a proposition which it decides. Proposition should not be extracted from that which the Court has not really decided.

[13] The learned counsel appearing for the petitioner in order to substantiate his case that in the above quoted NB portion of the impugned pay slip issued as an administrative order by the respondents, reason should be recorded, had placed reliance on the decision on the following decision of the Apex Court:

(1) S.N.Mukherjee Vs Union of India (supra) (Constitution Bench) that in the decision by the administrative authority, reason must be recorded, except in the cases where requirement is dispensed with expressly or by necessary implication inasmuch as natural justice demands that administrative action must be supported by reasons. The learned counsel for the petitioner also strenuously submitted that an administrative order which involve civil consequences must be made consistently with the rule expressed in the Latin Maxim ?Audi Alteram Partem? and there should be fairness and fair procedure in the administrative action. In support of his contention he placed reliance on the (1) Km.Neelima Mishra Vs Dr.Harinder Kaur Paintal & Ors (supra) and (2) S.N.Mukherjee Vs Union

of India (supra). Para 22 and 23 of the AIR in *Km. Neelima Mishra Vs Dr. Harinder Kaur Paintal & Ors* (supra) reads as follows:

22. An administrative order which involves civil consequences must be made consistently with the rule expressed in the Latin Maxim *audi alteram partem*. It means that the decision maker should afford to any party to a dispute an opportunity to present his case. A large number of authorities are on this point and we will not travel over the field of authorities. What is now not in dispute is that the person concerned must be informed of the case against him and the evidence in support thereof and must be given a fair opportunity to meet the case before an adverse decision is taken. *Ridge v. Baldwin* (1963 (2) All ER 66) (supra); *State of Orissa v. Dr. Binapani Dei*, (1967) 2 SCR 625: (AIR 1967 SC 1269).

23. The shift now is to a broader notion of 'fairness' or 'fair procedure' in the administrative action. The administrative officers are concerned, the duty is not so much to act judicially as to act fairly (*See Keshav Mills Co. Ltd. v. Union of India*, (1973) 3 SCR 22 at p.30: (AIR 1973 SC 389 at Pp.393-94); *Mohinder Singh Gill v. Chief Election Commissioner*, (1978) 1 SCC 405 at p.434: (AIR 1978 SC 851 at Pp.871-72); *Swadeshi Cotton Mills v. Union of India*, (1981) 1 SCC 664: (AIR 1981 SC 818) and *Management of M/s M.S. Nally Bharat Engineering Co. Ltd Vs The State of Bihar* (Civil Appeal No. 1102 of 1990 decided on February 9, 1990). For this concept of fairness, adjudicative setting are not necessary, nor it is necessary to have *lites inter parties*. There need not be any struggle between two opposing parties giving rise to a "*lis*". There need not be resolution of *lis inter parties*. The duty to act judicially or to act fairly may arise in widely different circumstances. It may arise expressly or impliedly depending upon the context and considerations. All these types of nonadjudicative administrative decision making are now covered under the general rubric of fairness in the administration. But when even such an administrative decision unless it affects one's personal rights or one's property rights, or the loss of or prejudicially affects something which would juridically be called at least a privilege does not involve the duty to act fairly consistent with the rules of natural justice. We cannot discover any principle contrary to this concept.

[14] The learned counsel appearing for the petitioner in order to substantiate case of the petitioner placed reliance on the *Canara Bank & Ors Vs Debasis Das & Ors* (supra) wherein the Apex Court held that predecisional hearing is not a substitute of post decisional hearing and also that even an administrative order which involves civil consequences must be consistent with the Rule of natural justice. Para 19 of the *Canara Bank & Ors Vs Debasis Das & Ors* (supra) reads as follows:

19. Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice

should be implied and what its context should be in a given case must depend to a great extent on the facts and circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. The expression 'civil consequences' encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and nonpecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.

[15] The learned counsel appearing for the petitioner also placed reliance on the decision of the Apex Court in *Shyam Babu Verma & Ors Vs Union of India & Ors* (supra) that higher pay scale erroneously given to the petitioners since 1973 and petitioner received the higher scale due to no fault of theirs, it shall only be just and proper not to recover any excess amount already paid to them even if pay scale of the petitioner reduced in 1984. The ratio laid down by the Apex Court in *Shyam Babu Verma & Ors Vs Union of India & Ors* (supra) is followed by the Division Bench of this Court in *All Manipur Degraded Teachers' Assn Vs State of Manipur & Ors* (DB): WA No. 57/1997. In that case, the teachers are down graded from the grade of Graduate teachers to the grade of under Graduate teachers under an order of the Government of Manipur and under the very order of the Government of Manipur it had been ordered to recover the excess payment of pay and allowances from the pay of the down graded Teachers. By this court by passing the judgment and order dated 21.9.2004 in *All Manipur Degraded Teachers' Assn Vs State of Manipur & Ors* (supra) set aside the order of the Government of Manipur for recovering the excess payment from the pay and allowances of the Degraded Teachers. Para No. 5, 6 and 7 of the judgment and order of this court (DB) in WA No. 57/1997 dated 21.9.2004 reads as follows:

¶5. It is contended by Mr.A Bimal Singh, learned counsel for the appellants that the applicants have no grievance against such direction for framing of the said guideline and appropriate actions taken thereafter upon the same but their only prayer is that the pay and allowances drawn by the appellants as the graduate teachers at the time of upgradation shall not be recovered pursuant to the impugned orders praying for quashment of the impugned orders, he has placed reliance on two decisions of the Apex Court, namely, (1)*Shyam Babu Verma & ors. vs Union of India* and ors. reported in (1994) 2 SCC 521 and 2) *Jaswant Singh vs Punjab Poultry Field Staff Association & ors.* reported in AIR 2002 SC 231 wherein the Apex Court ruled that since the petitioners therein received the higher scale due to no fault of theirs, it should only be just and proper not to recover any excess amount paid to them. For discharging their duties in a higher post, the incumbent was at least entitled to the pay and other allowances attributable to that post during the period he carried out such duties (para 11 of both the cited cases).

6. It is settled law that higher pay scale given erroneously to the incumbent

without any default of their shall not be recovered. The interest of justice demands that where service of an employee has been by the State in particular post after up gradation, he shall upon degradation from the said post, be entitled to get the salary and allowances of that higher post for the period during which he was holding the same.

8. Upon hearing the learned counsel for the parties and also having regard the settled position of law as laid down in the above cited cases, we are of the view that the State respondents are not entitled to make recovery of the excess pay including D.A and other allowances as mentioned in the impugned orders that had been paid to the appellants for their services rendered during those periods from the date of their upgradation to graduate teachers till their degradation, from the appellants. Accordingly the impugned orders are hereby quashed and set aside.?

Admittedly, there was absolutely no fault of the petitioner in enjoying the benefit of the said order of the Government of Manipur dated 22.7.1997 which is still valid.

[16] From the close perusal of the case laws cited by the learned counsel for the respondents, it appears that all the cases cited except one i.e. Aligarh Muslim University & Ors Vs Mansoor Ali Khan (Supra), above are regarding the entitlement of counting ad hoc period of the employees in determining their seniority and, as discussed above, a decision of the Apex Court is only an authority for a proposition which it decides and proposition should not be extracted from that which the Court has not really decided. As such, the Apex Court in the cases cited by the learned counsel for the respondents did not decide that the ad hoc employee are not entitled to get increment during the period of their ad hoc appointment. Such being the settled position of law, the cases cited by the learned counsel for the respondents shall not help the case of the respondents. In the Aligarh Muslim University & Ors Vs Mansoor Ali Khan (supra), the Apex Court held that 'useless formality' theory is an exception. In the ultimate analysis the applicability of the theory would depend on the facts of a particular case.

[17] The N.B portion of the impugned pay slip dated 17.12.2003 which shall have the civil consequences and passed without giving any opportunity of show cause to the petitioner in clear violation of the principle of natural justice and fair procedure and also without giving any reason is illegal for the reason discussed above. Accordingly, this court is of the considered view that interference to the impugned pay slip is called for and hereby set aside. The writ petition (C) No. 454 of 204 is allowed.

[18] Similarly, writ petitioner of WP(C) No. 234 of 2004 had rendered two spells of adhoc/temporary service with a break in between just before she was regularly appointed:

First Spell : 7.9.87 to 5.10.90

Break Period : 6.10.90 to 15.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular officiating appointment w.e.f. 26.11.1993, which was again followed by regular appointment/regularization w.e.f. 31.12.1999 vide order dated 31.12.1999. The Government of Manipur issued order dated 4.4.1998 granting two benefits to the petitioner (AnnexureA/8 to the writ petition):

(a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 7.9.87 to 5.10.90 and from 16.12.91 to 25.11.93 excluding the break period from 6.10.90 to 15.12.91 were linked up for the purpose of counting her qualifying service for pensionary benefit; and

(b) that the petitioner was made entitled to three advance/premature increments which she had earned during the first spell of her adhoc/temporary service from 7.9.87 to 5.10.90 excluding the break period. This was done by way of protecting her pay which she enjoyed during the first spell of adhoc service.

It is also the case of the petitioner that the said order of the Government of Manipur dated 4.4.98 for giving the said two benefits has not yet been superseded or modified by any subsequent order of the Government of Manipur and as such, the said order dated 4.4.98 is still in force. Similarly, the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 11.12.2003 with envy that over payment of pay and allowances w.e.f. 16.12.1991 to 16.11.1996 amounting to Rs.25,812/ (Rupees twentyfive thousand eight hundred and twelve) only may be recovered in 9 installments @ Rs.3,000/ per month and last installment being Rs.1,512/ recovering from November, 2003 to July, 2004.

For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 11.12.2003 is hereby quashed and set aside.

[19] Similarly, writ petitioner of WP(C) No. 237 of 2004 had rendered two spells of adhoc/temporary service with a break in between just before he was regularly appointed:

First Spell : 4.9.87 to 5.10.90

Break Period : 6.10.90 to 13.12.91

Second Spell : 14.12.91 to 25.11.93

which was followed by regular appointment w.e.f. 26.11.1993 vide order dated 26.11.93 (AnnexureA/14 to the writ petition). Similarly the Government of Manipur issued the said order dated 22.7.99 for linking up/condonation of premature interruption service i.e. first and second period of adhoc service upto regularization of the present petitioner, writ petition (C) No. 454/04 and 20 other

Lecturers. Under the said order of the Government of Manipur dated 22.7.97 two benefits were granted to the petitioner viz:

(a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 4.9.87 to 5.10.90 and from 14.12.91 to 25.11.93 excluding the break period from 6.10.90 to 15.12.91 were linked up for the purpose of counting his qualifying service for pensionary benefit; and

(b) that the petitioner was made entitled to three advance/premature increments which he had rendered during the first spell of his adhoc/temporary service from 4.9.87 to 5.10.90 excluding the break period.

This was done by way of protecting his pay which he enjoyed during the first spell of ad hoc service. But, the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 19.12.2003 with envy that over payment of pay and allowances w.e.f. 14.12.1991 to 12.11.1996 amounting to Rs.25,689/ (Rupees twentyfive thousand six hundred and eighty nine) only may be recovered from his pay and allowances w.e.f. 1.12.2003 @ Rs.3,000/ per month in 9 installments and last installment being Rs.1,689/.

For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip is hereby quashed and set aside.

[20] The writ petitioner of WP(C) No. 455 of 2004 had rendered

two spells of adhoc/temporary service with a break which was followed by regular appointment as Lecturer;

First Spell : 24.8.87 to 24.5.90

Break Period : 26.5.90 to 1.12.93

Second Spell : 2.12.93 till date on regular appointment w.e.f. 26.11.1993 (AnnexureA/6 to the writ petition). The Government of Manipur similarly issued order being No. 5/11/96S/SE (Pt), Imphal the 10th June, 1998 for linking up/ condonation of the preinterruption service i.e. first and second period of ad hoc/ substitute/temporary services upto regularization of the petitioner as Lecturer in Chemistry, Lilong Haoreibi College, Lilong. Under the said order of the Government of Manipur dated 10.6.1998 the Government of Manipur had granted two benefits to the petitioner;

(a) the first spell of petitioner's adhoc/temporary service i.e. period from 24.8.87 to 24.5.90 were linked up with the second spell of regular service starting from 2.12.93 for the purpose of counting qualifying service for pensionary benefit; and

(b) the petitioner was made entitled to two advance/premature increments which he had earned during the first spell of his adhoc/temporary service from 24.8.87 to 24.5.90.

This was done by way of protecting his pay which he enjoyed during the first spell of adhoc service. Similarly the said order of the Government of Manipur dated 10.6.98 has not yet been superseded or modified by a later order of the Government of Manipur and as such, the said order dated 10.6.98 is still in force. Similarly, the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 16.3.2004 with envy that over payment of pay and allowances w.e.f. 3.12.1993 to 31.1.2004 amounting to Rs.75,174/ (Rupees seventy five thousand one hundred and seventy four) only may be recovered from his pay and allowances @ Rs.3,000/ per month w.e.f. 1.2.2004 in 25 monthly installments and last installment being Rs.3,174/.

For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 16.3.2004 is hereby quashed and set aside.

[21] The writ petitioner of WP(C) No. 456 of 2004 had rendered

two spells of adhoc/temporary service with a break in between just before

he was regularly appointed:

First Spell : 8.9.87 to 5.10.90

Break Period : 6.10.90 to 15.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular appointment w.e.f. 28.11.1993 vide order dated 26.11.1993 (AnnexureA/7 to the writ petition). The Government of Manipur issued the said order dated 22.7.1997 for linking up/condonation of the preinterruption service i.e. first and second period of ad hoc service upto regularization of the present petitioner, petitioner of WP(C) No. 454/04 and 20 others under the said order of the Government of Manipur dated 22.7.1997 two benefits were granted to the petitioner, namely:

(a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 8.9.87 to 5.10.90 and from 16.12.91 to 25.11.93 excluding the break period from 6.10.90 to 15.12.91 were linked up for the purpose of counting his qualifying service for pensionary benefit; and b) the petitioner was made entitled to three advance/premature increments which he had earned during the first spell of her adhoc/temporary service from 8.9.87 to 5.10.90 but excluding the break period.

This was done by way of protecting his pay which he enjoyed during the first spell of his adhoc service.

As stated above, the said order of the Government of Manipur dated 22.7.1997 is still in force. But the Sr.Accounts Officer of office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 17.12.2003 with envy that over payment of pay and allowances w.e.f. 1.11.1992 to

14.11.1996 amounting to Rs.26,853/ (Rupees twenty six thousand eight hundred and fifty three) only may be recovered from his pay and allowances w.e.f. 1.12.2003 @ 3,000/ per month in 9 monthly installments and last installment being Rs.2,853/. For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 17.12.2003 is hereby quashed and set aside.

[22] Similarly, writ petitioner of WP(C) No. 457 of 2004 had rendered two spells of adhoc/temporary service with a break in between just before she was regularly appointed:

First Spell : 30.11.87 to 5.10.90

Break Period : 6.10.90 to 15.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular officiating appointment w.e.f. 26.11.1993, which was again followed by regular appointment vide order dated 26.8.1995 (AnnexureA/6 to the writ petition). Similarly, the Government of Manipur issued order dated 23.12.1997 for linking up/condonation of the preinterruption service i.e. first and second period of ad hoc service upto regularization of the service of the petitioner as Lecturer in Sociology, D.M.College Arts. And similarly under the said order of the Government of Manipur dated 23.12.97 (AnnexureA/8 to the writ petition) two benefits were granted to the petitioner;

a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 30.11.87 to 5.10.90 and from 16.12.91 to 25.11.93 excluding the break period from 6.10.90 to 15.12.91 were linked up for the purpose of counting her qualifying service for pensionary benefit; and

b) that the petitioner was made entitled to three advance/premature increments which she had earned during the first spell of her adhoc/temporary service from 30.11.87 to 5.10.90 excluding the break period. This was done by way of protecting her pay which she enjoyed during the first spell of adhoc service.

Similarly, the said order of the Government of Manipur dated 23.12.97 has not yet been superseded or modified by any subsequent order of the Government of Manipur and as such, the said order of the Government of Manipur dated 23.12.1997 is still in force. But the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 22.3.2004 with envy that over payment of pay and allowances w.e.f. 16.12.1991 to 21.2.1997 amounting to Rs.27,990/ (Rupees twentyseven thousand nine hundred and ninety) only may be recovered from her pay and allowances w.e.f. 1.2.2004 @ Rs.3000/ per month in 9 installments and last installment being Rs.3,990/.

For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 22.3.2004 is hereby quashed and set aside.

[23] The writ petitioner of WP(C) No. 675 of 2004 had rendered two spells of adhoc/temporary service with a break in between which was followed by regular appointment:

First Spell : 8.9.87 to 5.10.90

Break Period : 6.10.90 to 15.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular officiating appointment w.e.f. 26.11.1993, (AnnexureA/6 to the writ petition). Similarly, the Government of Manipur issued the said order dated 22.7.97 for linking up/condonation of the preinterruption service i.e. first and second period of ad hoc service upto regularization of the present petitioner, petitioner of WP(C) No. 454/04 and 20 others. Under the said order of the Government of Manipur two benefits mentioned above also had been granted to the petitioner and as such, the petitioner was entitled to three advance/premature increments which he earned during the first spell of his ad hoc/temporary service from 8.9.87 to 5.10.90 but excluding the break period. But the Sr.Account Officer of the office of the Senior Deputy Accountant General, (A & E), Manipur, Imphal issued the impugned pay slip dated 17.12.2003 with envy that over payment of pay and allowances w.e.f. 14.12.1991 to 15.11.1993 amounting to Rs.9,968/ (Rupees nine thousand nine hundred and sixty eight) only may be recovered from his pay and allowances w.e.f. 1.12.2003 @Rs.3000/ per month in 3 installments and last installment being Rs.5,968/.

As stated above, the said order of the Government of Manipur dated 22.7.97 is still in force. For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 17.12.2003 is hereby quashed and set aside.

[24] Similarly, writ petitioner of WP(C) No. 236 of 2004 had rendered two spells of adhoc/temporary service with a break in between which was immediately followed by regular appointment:

First Spell : 7.9.87 to 5.10.90

Break Period : 6.10.90 to 13.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular officiating appointment w.e.f. 26.11.1993 vide order dated 26.11.93 (AnnexureA/14 to the writ petition). As stated above, the Government of Manipur issued order dated 22.7.97 for linking up/condonation of the preinterruption service, i.e. first and second period of ad hoc service upto regularization of the present petitioner, petitioner of WP(C) No. 454/04 and 20 other Lecturers. Under the said order of the Government of Manipur dated 22.7.97 two benefits were granted to the petitioner;

(a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 7.9.87 to 5.10.90 and from 16.12.91 to 25.11.93 excluding the break

period from 6.10.90 to 13.12.91 were linked up for the purpose of counting his qualifying service for pensionary benefit; and

(b) the petitioner was made entitled to three advance/premature increments which he had earned during the first spell of his adhoc/temporary service from 7.9.87 to 5.10.90 excluding the break period.

This was done by way of protecting his pay which he enjoyed during the first spell of adhoc service.

As stated above, the said order of the Government of Manipur dated 22.7.97 is still in force. But the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 29.12.2003 with envy that over payment of pay and allowances w.e.f. 14.12.1991 to 14.11.1993 amounting to Rs.8,105/ (Rupees eight thousand one hundred and five) only may be recovered from his pay and allowances w.e.f. 1.11.2003 @ Rs.3000/ per month in 3 installments and last installment being Rs.2,105/.

For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 29.11.2003 is hereby quashed and set aside.

[25] Similarly, writ petitioner of WP(C) No. 676 of 2004 had rendered two spells of adhoc/temporary service with a break in between just before she was regularly appointed:

First Spell : 8.9.87 to 5.10.90

Break Period : 6.10.90 to 15.12.91

Second Spell : 16.12.91 to 25.11.93

which was followed by regular officiating appointment w.e.f. 26.11.1993 (AnnexureA/6 to the present writ petition The Government of Manipur issued order dated 22.7.1997 granting two benefits to the petitioner (AnnexureA/7 to the writ petition):

(a) the first and second spell of petitioner's adhoc/temporary service i.e. period from 8.9.87 to 5.10.90 and from 16.12.91 to 25.11.93 excluding the break period from 6.10.90 to 15.12.91 were linked up for the purpose of counting her qualifying service for pensionary benefit; and

(b) the petitioner was made entitled to three advance/premature increments which she had earned during the first spell of her adhoc/temporary service from 8.9.87 to 5.10.90 excluding the break period.

This was done by way of protecting her pay which she enjoyed during the first spell of adhoc service.

It is also the case of the petitioner that the said order of the Government of Manipur dated 22.7.97 for giving the said two benefits has not yet been superseded or modified by any subsequent order of the Government of Manipur

and as such, the said order dated 22.7.97 is still in force. Similarly, the Sr.Accounts Officer of the office of the Sr.Dy. Accountant General (A& E), Manipur, Imphal issued the impugned pay slip dated 17.12.2003 with envy that over payment of pay and allowances w.e.f. 16.12.1991 to 18.11.1996 amounting to Rs.25,949/ (Rupees twentyfive thousand nine hundred and forty nine) only may be recovered in 9 installments @ Rs.3,000/ per month and last installment being Rs.1949/. For the reasons, mentioned in WP(C) No. 454/04, the impugned pay slip dated 17.12.2003 is hereby quashed and set aside. To the extent mentioned above, all the writ petitions (9 in numbers) are allowed. Considering the entire facts and circumstances of the present cases, the parties have to bear their own costs.