

(2005) 07 GAU CK 0033
In the Gauhati High Court

S.Khama Vaiphei

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 28-07-2005

Acts Referred:

Citation : (2005) 07 GAU CK 0033

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

Bench : Single Bench

Advocate : N.Biren Singh, L.Shyam Kishore Singh, L.Gunindro, Jalal Uddin,
Advocates appearing for Parties

Judgement

1. Heard Mr. N. Biren, learned counsel for the petitioner as well as Mr.L.Shyamkishore Singh, learned senior counsel assisted by Mr. L. Gunindro, learned counsel for respondent No. 3 and Md. Jalal Uddin, learned Government Advocate appearing for respondent Nos. 1, 2 and 4.

[2] By this application, the petitioner is praying for a direction to the respondents to consider his case for appointment to any suitable post commensurate with his educational qualification under the DieinHarness scheme on compassionate ground.

[3] According to the petitioner, his father namely, late Shri S. Pathang Vaiphei was an Assistant Primary Teacher of Kharam Vaiphei UJB School and on deputation to the Autonomous Hill District Council, Kangpokpi, he was serving as an Assistant Primary Teacher under the Autonomous District Council, Kangpokpi for a period of about 24 years without any break till he died in harness on 27.5.2000 leaving behind 6 (six) dependants; namely, (1) S. Zawmpi Vaiphei, wife, (2) S. Khama Vaiphei, eldest son/present petitioner, (3) S. Kimboi Vaiphei, Daughter, (4) S. Chochong Vaiphei, Daughterinlaw, (5) S. Minthang Vaiphei, Grand son and (6) S. Tingnou Vaiphei, Grand Daughter. After the death of his father, the Director of Education (S), Government of Manipur issued order being No.3/31/97ED(EL)(H) dated, Imphal the 20th December, 2001 to the effect

that; ?Consequent on his expiry the services of Shri S.Pathang Vaiphei, Asstt.Primary Teacher of Kharam Vaiphei U.J.B School, Sadar Hills deputed to Autonomous District Council, Kangpokpi in the scale of pay of Rs. 40006000/p.m. are hereby terminated with effect from 27.5.2000 (AN).? A copy of the said order dated 20.12.2001 is available at AnnexureA/2 to the writ petition. According to the petitioner, the petitioner and other members of the family are the sole dependants of his father and as such after the death of his father they were left in a very bad financial condition. Over and above, none of the members of the family are employed either in the State Government or in the Central Government. It is admitted case of both the parties that the schemes prepared by the Government of Manipur for appointment of the dependants of Government employee who died in harness on compassionate ground, properly known as Dieinharness scheme, are also extended to the Autonomous District Councils.

[4] The petitioner, it is said that he also filed a representation dated 19.6.2000 to the Chief Executive Officer, Sadar Hills Autonomous District Council, Kangpokpi, Manipur for appointing him as Primary Teacher in place of his father under the Dieinharness scheme. A copy of the said representation dated 4 19.6.2000 is available at AnnexureA/3 to the writ petition. It is also case of the petitioner that he passed HSLC Examination from the Board of Secondary Education, Manipur in the year, 1988 and a copy of the certificate for passing HSLC Examination is available at AnnexureA/5 to the writ petition. It is, said that the Chief Executive Officer, Sadar Hills Autonomous District Council, Kangpokpi, Manipur under his letter dated 25.7.2000 had called the necessary information about the petitioner from the Sub Divisional Officer, Saitu Gamphazol within whose territorial jurisdiction, the petitioner and other family members of late S. Pathang Vaiphei are residing. The Sub Divisional Officer under his letter dated 29.7.2000 submitted the information required for appointment of the petitioner under the Dieinharness scheme to the Chief Executive Officer, Sadar Hill Autonomous District Council, Kangpokpi. It is also admitted case of both the parties that the petitioner is a member of the Scheduled Tribe for the State of Manipur under the Presidential order.

[5] The Chief Executive Officer, Sadar Hill Autonomous District Council, Kangpokpi, Manipur under his letter dated 22.5.2003 requested the Commissioner (Hills), Government of Manipur for appointing the petitioner against the vacant post caused by the death of his father by forwarding the application along with the documents in original filed by the petitioner. A copy of the said letter of the Chief Executive Officer, Sadar Hill Autonomous District Council, Kangpokpi, dated 22.5.2003 is available at AnexureA/9 to the writ petition. The petitioner also annexed the relevant office memoranda of the Government of Manipur for appointment under the Dieinharness scheme, viz: (1) OM dated 1.12.1995, (2) OM dated 13.1.1999 and (3) OM dated 29.10.2002 5 as annexureA/10, A/11 and A/13 respectively to the present writ petition.

[6] The further case of the petitioner is that he had approached, on several occasions to the respondents for appointing him to any suitable post commensurate with his educational qualification under the said Dieinharness scheme of the Government of Manipur but under certain pretext, the respondents are delaying to consider the case of the petitioner for appointing him under the Dieinharness scheme on compassionate grounds, hence, he approached this court by filing the present writ petition.

[7] The respondent nos.1 and 3 filed their affidavit in opposition in the present writ petition and in their affidavit in opposition it is said that there are some typographical mistakes regarding the date of death of his father and date of initial appointment of his father as Assistant Primary Teacher in the copy of the representation of the petitioner dated 19.6.2000 annexed as Annexure A/3 to the writ petition. But the respondents, in their affidavit in opposition did not deny that the petitioner's father was serving as Assistant Primary Teacher on deputation to the Sadar Hill Autonomous District Council, Kangpokpi and it is also admitted that the petitioner's father was appointed as Assistant Primary Teacher in a Government School, i.e. Kharam Vaiphei UJB School under the Education Department, Government of Manipur. Further, the respondents also do not deny that representation had been filed by the petitioner within the stipulated time for appointing him under the Dieinharness scheme and necessary inquiries were already held by the Chief Executive Officer, Sadar Hill Autonomous District Council, Kangpokpi as well as the Sub Divisional Officer, Saitu Gamphazol, Government of Manipur and the same had been forwarded to the Commissioner (Hills), Government of Manipur. From perusal of the affidavit in opposition, it appears that the respondents are delaying to take up steps for consideration of the case of the petitioner for appointment under the Dieinharness scheme on unreasonable pretexts, which had been spelt out in their affidavit in opposition.

[8] For the reasons discussed above, this writ petition is disposed of by directing the respondents to consider the case of the petitioner for appointment under the relevant Dieinharness scheme to any post commensurate with his educational qualification subject to his position in the list of applicants for appointment under the Dieinharness scheme maintained by the concerned department i.e. Education Department or Sadar Hill Autonomous District Council, Kangpokpi as expeditiously as possible, preferably within a period of 4 (four) months from the date of receipt of this judgment and order.

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