

(2018) 02 MAN CK 0008
In the Manipur High Court
Case No : Write Appeal No. 35 Of 2017

State Of Manipur And Anr	Vs	APPELLANT
M Kheroda Devi		RESPONDENT

Date of Decision : 21-02-2018

Acts Referred:

Citation : (2018) 02 MAN CK 0008

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : S.Nepolean

Final Decision : Dismissed

Judgement

N. Kotiswar Singh, J

This writ appeal has been preferred by the State of Manipur challenging the order dated 13.02.2017 passed by the learned Single Judge in Review Petition No.20 of 2016 arising out of W.P(C) No. 611 of 2016.

Mr. S.Nepolean, learned Government Advocate has submitted that the learned Single Judge ought not to have disposed of the review petition on the basis of the letter dated 24.10.2016 issued by the Deputy Secretary (RD & PR), Govt. of Manipur to the Director (RD & PR). It is submitted that this letter contains a reference to a Cabinet decision only. The learned Government Advocate has also referred to the grounds taken in the memorandum of the appeal, wherein one of the grounds is that the State Government is aggrieved by the impugned order passed by the learned Single Judge, wherein unauthorised concession was made by the learned counsel appearing for the State Government. It is further submitted that the State Government has not taken any decision to adjust the service of the respondents/writ petitioners against the regular posts. Therefore, there cannot be any such letter of the State Government directing the learned Government Advocate to apprise the Court regarding the decision taken by the State Government to adjust the service of the respondents/writ petitioners

against the regular vacant posts.

On the other hand, Mr. Kh.Tarunkumar Singh, learned counsel for the respondents/writ petitioners submits that the impugned order passed by the learned Single Judge contains no direction or findings. The Review Petition has merely been disposed of, on the strength of the letter dated 24.10.2016, which was handed over to the Court by Mr. N.Ibotombi, learned Addl. Advocate General (wrongly referred to in the order as learned Addl. Government Advocate). It is further submitted that the letter dated 24.10.2016, refers to a decision of the Cabinet and a request has been made to the Administrative Department to ensure compliance, in consultation with the Law Department, as directed by the High Court.

We have heard the learned counsel for the respective parties at length. The matter in controversy can be clarified by a simple perusal of the impugned order and the letter dated 24.10.2016. The impugned order, being a short one, is reproduced hereinbelow:-

"Shri Kh. Tarunkumar, the learned counsel appearing for the petitioner and Shri K.Rabei, the learned counsel appearing for the State respondents fairly submit that the instant writ petition can be disposed of with the direction that the respondents shall issue an appropriate order adjusting the petitioner against the regular and vacant posts available as on date within a period of two months from today.

Accordingly, the writ petition stand disposed of."

A perusal of the said order clearly indicates that it was Mr.N.Ibotombi, learned Addl. Advocate General (wrongly referred to as learned Addl. Government Advocate), who placed on record the letter dated 24.10.2016, addressed to the Director (RD & PR), Govt. of Manipur, by the Deputy Secretary(RD & PR). It is stated in the said letter that with respect to the reservation/adjustment of three posts of P.A. in respect of the petitioners, who are named therein, the Cabinet has granted approval in its meeting held on 13.10.2016 and the Administrative Department may ensure compliance in consultation with the Law Department.

The contents of the letter dated 24.10.2016 have merely been reproduced by the learned Single Judge in the impugned order. In view of the above letter, the learned Single Judge has stated that no order is required to be passed in the Review Petition and, accordingly, review petition was disposed of.

We do not find any infirmity or irregularity in the impugned order, inasmuch as no direction has been issued to the State Government in this regard. Notice has been taken of the letter dated 24.10.2016, placed on record by the learned Addl. Advocate General. The review petition has been disposed of on the basis of the letter, without issuing any formal directions to the State Government. We cannot understand how the State Government is aggrieved by the impugned order.

It is admitted by Mr.Nepolean, learned Government Advocate that Shri

N.Ibotombi, learned Addl. Advocate General, who handed over the letter to the Court was authorised to do so. It is not the case of the State Government that the letter is a forged one or has been tampered with.

Mr.Nepolean, learned Government Advocate has made certain submissions regarding the order dated 23.9.2016 passed by this Court in W.P(C) No.611 of 2016. We are afraid we cannot deal with the above submission, as the said order is not the subject matter of the present appeal. Nor has this order been challenged in another writ appeal. We, therefore, do not find it appropriate to hear submissions or pass judgment on an order that has not been appealed against, at all.

Mr.Nepolean, learned Government Advocate further submits that the unauthorised concession by the learned counsel for the State Government was made in W.P(C) No.611 of 2016.

We have already made it clear that we are not dealing with the order dated 23.9.2016 passed in W.P(C) No.611 of 2016, as it is not the subject matter of challenge in the present writ appeal. If the State Government is aggrieved by any facet of that order, it is open to it to take appropriate action.

We find the submission that an unauthorised concession was made by the counsel for the State Government, to be one without basis. No concession has been given or recorded in the impugned order.

The learned Addl. Advocate General has merely placed on record the letter indicating the approval of the Cabinet for compliance of the order passed by the High Court. The details of the order of the High Court have not been indicated in this letter.

We find it expedient to reproduce the entire contents of the letter dated 24.10.2016, as below:-

"No. 12/11/2016-RD&PR(P)

GOVERNMENT OF MANIPUR

SECRETARIAT: RURAL DEVELOPMENT & PANCHAYATI RAJ DEPARTMENT

Imphal, the 24th October, 2016

To

The Director (RD7PR)

Manipur.

Subject: Proposal for filing up of 92 (ninety-two) different

Category vacancies of the existing sanctioned posts in RD&PR Department by direct recruitment.

Sir,

With reference to your letter No.1/113/77 -RD/XV/2016 dated 04/10/2016, on the above subject, I am directed to state that the State Cabinet in its meeting held on 13/10/2016 has approved the following:

(i) Filling up of 92 (ninety-two) different category vacancies out of the existing sanctioned posts (21 Progress Assistants, 16 LDCs, 6 Road Muhorriars, 7 Drivers and 42 Grades-IVs in RD & PR Department by direct recruitment.

(ii) Reservation/Adjustment for 3(three) posts of PA for the petitioners namely, Shri Soraisham Robin Singh, Yambem Shyam Chandra Singh and Smt. Mayanglambam Kheroda Devi from these 21 (twenty-one) new recruitment for PA as directed by the Hon'ble High Court. The Administrative Department may accordingly ensure compliance in consultation with Law Deptt;

(iii) The recruitment for these 92 (ninety-two) different category vacancies may be clubbed together with the ongoing recruitment of 224 (two hundred twenty-four) posts for 28 newly created Block Offices for cost effectiveness of the recruitment process for which more than 15000 candidates have applied.

You are, therefore, requested to take up appropriate necessary action in compliance of the said Cabinet decisions indicated above.

Yours faithfully

Sd/

(Valentina Aranbam)

Deputy Secretary (RD&PR),

Government of Manipur"

The letter is self-explanatory and the learned Single Judge has disposed of the Review Petition on the basis of this letter, without passing any order.

The grounds taken in the memorandum of appeal and those canvassed orally by Mr. Nepolean, learned Government Advocate, are without any substance, inasmuch as no prejudice has been caused to the State Government by the impugned order. No direction has been issued to its detriment. We, therefore, find the appeal to be devoid of merit and deserving of the following order:

The writ appeal stands dismissed.