

(2015) 09 MAN CK 0005

In the Manipur High Court

Case No : Writ Petition (C) Nos. 599 and 29 of 2013

Th. Debendra Kumar Singh and Others

APPELLANT

Vs

The State of Manipur and Others

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Citation : (2015) 09 MAN CK 0005

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : M. Hemchandra, for the Appellant; S. Nepolean and Samarjit Hawaibam, Govt. Advocates, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Kh. Nobin Singh, J—Heard Shri M. Hemchandra, learned counsel appearing for the petitioners; Shri S. Nepolean, learned Government Advocate appearing for the respondent Nos. 1 and 2 and Shri Samarjit Hawaibam, learned Government Advocate appearing for the respondent No. 3.

2. Since both the writ petitions arise out of the same set of facts, the same are being disposed of by this common judgment and order.

W.P. (C) No. 29 of 2013:

3. By this writ petition, the petitioners are seeking implementation/compliance/execution of the judgment and order dated 16-01-2009 passed by the Hon"ble Gauhati High Court, Imphal Bench in W.P. (C) No. 798 of 2008.

3.1. According to the petitioners, they are all Veterinary Specialist in their respective fields and while the petitioners were working in that capacity, the Government of Manipur framed a rule called the Manipur Veterinary & Animal Husbandry Services Rules, 1994, vide notification dated 12-10-1994, which came into operation from the date of its publication in the official gazette on 17-10-1994. At the commencement of the said Rules 1994, under rule 3 it

contemplated a service known as Manipur Veterinary & Animal Husbandry Services to be constituted consisting of persons appointed under Rule 7, 8 and 11 of the said Rules, 1994. In other words, all incumbents were to be appointed, in terms of the provisions of Rule 7 thereof, to initially constitute the said service.

3.2. The petitioner No. 1 filed a writ petition being C.R. No. 336 of 1997 praying for grant of promotion to Grade-III of the Manipur Veterinary & Animal Husbandry Services which was disposed of by the Hon''ble Gauhati High Court, Imphal Bench on 27-05-1998 with the direction to the respondents therein to consider the case of the petitioner within a period of 1(one) month there from. Since the respondents failed to comply with the said direction, the petitioner No. 1 filed a contempt petition being Contempt Case (C) No. 11 of 1999 which was disposed of on 18-01-1999 with the direction that the respondents therein should issue order of compliance within a period of 3 (three) months there from. Due to non-compliance of the said court's order dated 18-01-1999, the petitioner No. 1 was compelled to file another contempt petition being Contempt Case (C) No. 238 of 1999 wherein the Hon''ble Gauhati High Court, Imphal was pleased to pass an order dated 06-12-1999 for personal appearance of the respondents on 13-12-1999 on which the respondents gave an assurance before the Hon''ble Court for convening a DPC. In an affidavit filed by the then Commissioner (Vety. & A.H) on 13-12-1999, it is stated that the Tentative Seniority List of Grade-IV was published on 02-11-1999 and the Final Seniority List thereof was published on 18-11-1999 and thereafter, a requisition dated 22-11-1999 was sent to the MPSC for taking necessary action. Accordingly, the MPSC informed vide its letter dated 04-12-1999 that the DPC be held on 17-12-1999. Thus, in compliance of the said orders dated 27-05-1998 and 18-01-1999 of the Hon''ble Gauhati High Court, Imphal Bench, a DPC was convened on 17-12-1999 and 20-12-1999 for filling up 7 (seven) posts and the petitioners were recommended for appointment on promotion to Grade-III of the Manipur Veterinary & Animal Husbandry Services. On the basis of the said recommendation, the State Government issued an order dated 21-12-1999 by which the petitioners were promoted to Grade- III of the Manipur Veterinary & Animal Husbandry Services.

3.3. Consequent upon the Government order dated 21-12-1999, the petitioners had been working sincerely and effectively to the utmost satisfaction of their senior officers and while the petitioners were working so, the Government of Manipur issued an order dated 08-08-2008 publishing a Tentative Seniority List of Grade-III of the Manipur Veterinary & Animal Husbandry Services wherein the names of the petitioners were found. However, to the shock and surprise of the petitioners, when the Final Seniority Lists were published vide orders dated 08-09-2008 of the Commissioner (Vety. & A.H. Services), Government of Manipur, the names of the petitioners were not included in the final Seniority List of Grade-III of the Manipur Veterinary & Animal Husbandry Services but were included illegally, arbitrarily and without adequate reasons, in the final Seniority List of Grade-IV of the Manipur Veterinary & Animal Husbandry Services. The petitioners, along with 2 (two) other similarly situated persons, filed a writ

petition being W.P. (C) No. 798 of 2008 before the Hon"ble Gauhati High Court, Imphal Bench praying for setting aside the impugned Seniority List of Grade-IV of the Manipur Veterinary & Animal Husbandry Services published vide order dated 08-09-2008 which was finally disposed of by the learned Single Judge on 16-01-2009 by which the said Seniority List of Grade-IV was quashed in so far as it related to Sl. Nos. 3, 6, 7 and 10 wherein the petitioners "names were shown as Grade-IV Officers. By the said judgment and order dated 16-01-2009 of the learned Single Judge, the Hon"ble Gauhati High Court, the respondents therein were directed to include the names of the petitioners in the Seniority List of Grade-III of the Manipur Veterinary & Animal Husbandry Services published vide order dated 08-09-2008 and to place their names in accordance with their merit positions obtained by them in the recommendation of the DPC. In compliance of the said order dated 16-01-2009 of the learned Single Judge, the Government of Manipur issued an order dated 07-02-2009 publishing the Tentative Seniority List of Grade-III of the Manipur Veterinary & Animal Husbandry Services showing the names of the petitioners therein.

3.4. Although the said Tentative Seniority List of Grade-III of the Manipur Veterinary & Animal Husbandry Services having been published, no Final Seniority List thereof was prepared and without a final Seniority List being published, a DPC for appointment on promotion to the post of Joint Director (Grade-II of the Manipur Veterinary & Animal Husbandry Services) was convened on 29-06-2012. Being aggrieved by the said non-implementation of the direction contained in the judgment and order dated 16-01-2009 of the learned Single Judge, the petitioners filed the present writ petition being W.P. (C) No. 29 of 2013 praying for implementation of the said judgment and order dated 16-01-2009 of the learned Single Judge.

W.P. (C) No. 599 of 2013:

4. The present writ petition has been filed by the petitioners praying for quashing/ setting aside the impugned order dated 31-07-2013 issued by the Under Secretary (Vety. & A.H), Government of Manipur.

4.1. During the pendency of the said writ petition being W.P. (C) No. 29 of 2013, the Veterinary & Animal Husbandry Department, Government of Manipur issued the impugned order dated 31-07-2013 stating therein that the appointment of the petitioners on promotion to Grade-III of the Manipur Veterinary & Animal Husbandry Services shall be null and void and in consequence thereof, the Veterinary & Animal Husbandry Department issued another order on the same day i.e., dated 31-07-2013 for transfer and posting of the petitioners. Being aggrieved by the order dated 31-07-2013, the present writ petition has been filed by the petitioners questioning the validity and correctness of it.

5. The above writ petitions are contested by filing affidavit-in-oppositions on behalf of the respondent Nos. 1 & 2 wherein it is stated that pursuant to and in terms of the judgment and order dated 19-11-1999 passed in W.A. No. 3 of 1999

and Civil Misc. Application No. 225 of 1999, no DPC for promotion to Grade-III of the Manipur Veterinary & Animal Husbandry Services could have been held without a valid initial constitution of the said service and also without a Seniority List and therefore, the DPC held on 17-12-1999 and 20-12-1999 could not be sustained in the eye of law. Only by order dated 21-08-2009 passed by the Hon'ble Gauhati High Court, Imphal Bench in M.C. (W.P. (C)) No. 149 of 2009 [Ref: W.P. (C) No. 1 of 2009], the State Government was allowed to review the proceedings of the 5th Review DPC held on 24-05-2008 as well as all consequential Government orders issued based on earlier Review DPC proceedings and accordingly, the Manipur Veterinary & Animal Husbandry Services was reconstituted for the 6th time on the recommendation of the 6th Review DPC held on 18-02-2012 and the Seniority List was prepared thereafter. According to the respondent Nos. 1 & 2, the basis of convening DPC on 17-12-1999 and 20-12-1999 was the reconstitution of the Manipur Veterinary & Animal Husbandry Services based on the recommendation of the 3rd Review DPC held on 15-05-1999 which came to be superseded by the subsequent Review DPCs such as 4th Review DPC held on 28-10-2006, 5th Review DPC held on 24-05-2008 and 6th Review DPC held on 18-02-2012. The Government order dated 21-12-1999 which was issued on the basis of the recommendation of the DPC convened on 17-12-1999 and 20-12-1999, promoting the petitioners to Grade-III of the said services, became null and void.

6. It is not in dispute that the Government of Manipur framed the said rule called the Manipur Veterinary & Animal Husbandry Services Rules, 1994, vide notification dated 12-10-1994, which came into operation from the date of its publication in the official gazette on 17-10-1994. Although it is not specifically averred in the writ petition as to when the petitioners initially joined their service in the Veterinary & Animal Husbandry Department, Government of Manipur, it appears that the petitioners joined their service prior to the said Rule, 1994 coming into operation. That is the reason why, at the commencement of the said Rules 1994, it became indispensable for the State Government to constitute the service known as Manipur Veterinary & Animal Husbandry Services under the provisions of Rule 7, 8 and 11 of the said Rules, 1994. In other words, all incumbents were to be appointed, in terms of the provisions of Rule 7 thereof, to initially constitute the said service. After the said service having been constituted, Select lists for all grades are to be prepared so that appropriate steps can be taken by the authority concerned for appointment of the incumbents on promotion to the next higher grade. Rule 7, 9, 10 and 11 of the Rules, 1994 are reproduced herein below:

"7. Initial Appointment to the Service: - (1) At the commencement of these Rules;

(i) All persons who were appointed to any of the posts in the Veterinary & Animal Husbandry Department and which have a corresponding grade as shown in Schedule - III in these Rules shall be deemed to have been appointed to such

corresponding grade from the date on which they were so appointed; and

(ii) All other persons who were appointed to Veterinary Assistant Surgeon or equivalent and which have no corresponding grade in these Rules shall be designated as Veterinary Officer and shall be deemed appointed in Grade - IV from the date of notification of these Rules and according to these Rules.

Provided that the persons who are deemed appointed under Sub-rule 1(i) shall be senior en-bloc to persons who are deemed appointed under sub-rule 1 (ii).

Provided further that the regular continuous service of officers mentioned in Sub-rule 1(ii) in the respective categories immediately before the commencement of these Rules shall count for the purpose of probation period, qualifying service for promotion, confirmation and pension in the service.

(2) Subject to the availability of posts in the sanctioned strength of the service, the appointing authority may, at the commencement of these Rules, appoint to the service on the recommendation of the Selection Committee a person -

A(i) Who was holding a post corresponding to Grade - III of the service and had put in -

(a) 7 years" service irrespective of grade for P.G. degree holders.

(b) 9 years" service irrespective of grade for P.G. Diploma holders.

(c) 12 years" service irrespective of grade for basic degree holders.

(ii) Failing which a person who was holding a post corresponding to Grade - IV and had put in -

(a) 15 years" service irrespective of grade for P.G. degree holders.

(b) 18 years" service irrespective of grade for P.G. Diploma holders.

(c) 20 years" service irrespective of grade for basic degree holders

- in Grade - II of the Service.

B(i) Who was holding a post corresponding to Grade - IV of the service and possessing the qualification prescribed at Annexure to Schedule - II with -

(a) 5 years" service irrespective of Grade for P.G. degree holders.

(b) 7 years" service irrespective of grade for P.G. diploma holders.

(ii) Failing which, a person who was in the unspecified grade and possessing the qualifications prescribed at Annexure to Schedule - II and had put in -

(a) 10 years, for P.G. degree holder.

(b) 12 years, for P.G. Diploma holder.

- in Grade - III of the Service (Specialist posts).

(iii) Who was holding a post corresponding to Grade - IV of the service with -

(a) 5 years" service irrespective of grade for P.G. degree holders.

(b) 7 years" service irrespective of grade for P.G. Diploma holders.

(c) 9 years" service for basic degree/diploma holders.

(iv) Failing which a person who was in the unspecified category/grade and had put in -

(a) 10 years service, for P.G. degree holder.

(b) 12 years service, for P.G. diploma holder.

(c) 14 years service, for basic/diploma holder.

- In the Grade - III service (non-Specialist posts).

C. The zone of consideration for the purpose of the initial constitution to the Grade - II and III of the Service shall be twice the number of vacancy plus four."

9. General Procedure for Promotion: - (1) Save as provided in Rule 7, Appointment/Promotion of the Head of Department shall be processed and maintained by the Department of Personnel and Administrative Reforms (Personnel Division), Government of Manipur and the rest of the Service shall be dealt with by the Administrative Deptt.

10. Preparation of Select List:-- (1) The Committee shall consider from time to time, cases for promotion to the different categories of the service and prepare two select lists one for the actual vacancies at the time of Selection and the other for those vacancies likely to occur during the year, for the different categories.

(ii) Selection for inclusion in the list(s) shall be made on the basis of merit with due regard to seniority from among the officers possessing the qualifications prescribed in Schedule - II.

(iii) Name of persons included in the select list(s) shall be arranged in order of merit and the Committee shall thereafter forward the list in respect of the actual vacancies to the Appointing Authority.

(iv) The Appointing Authority shall forward the select list so prepared to the Commission. If the Commission considers it necessary to make any change in the select list, it shall inform the appointing authority of the changes proposes. The select list shall finally be approved by the Appointing Authority, taking into account the changes, if any.

(v) The select list for the vacancies likely to occur during the year shall be valid until the next selection takes place or for a period of twelve months from the date of selection, whichever is earlier.

Provided that the aforesaid period of twelve months may be extended, in special

circumstances, by the Government for a further period not exceeding six months.

11. Appointment by Promotion:-- Appointment shall be made in order of merit of the approved list referred to in Clause (iv) of Rule 10 above."

Rule 3 provides for constitution of the service known as the Manipur Veterinary & Animal Husbandry Services consisting of persons appointed to the service under Rule 7, 8 and 11. Appointments made under Rule 7 and 11 are relevant for the present case. Rule 7 provides for initial appointment to the said service and it becomes necessary for the reason that at the time when the rule came into operation, there were incumbents who are required to be initially appointed against the grades as shown in the Schedule-III and thereafter, steps be taken by the authorities concerned for making appointments either under Rule 8 and 11 depending upon the vacancies in their respective grades.

7. It is submitted by Shri M. Hemchandra, the learned counsel appearing for the petitioners that since the order dated 27-05-1998 passed by the Hon''ble Gauhati High Court, Imphal Bench being not challenged by the respondents therein by preferring a writ appeal, it has attained finality. In the contempt petitions being Contempt Cases (C) No. 11 of 1999 and 238 of 1999 filed due to non-compliance of the court's order dated 27-05-1998, the respondents therein assured the Hon''ble High Court that the courts' order dated 27-05-1998 be complied with and accordingly, the contempt cases stood closed. Consequently, the DPC was convened on 17-12-1999 and 20-12-1999 and on the basis of its recommendation, the petitioners were appointed on promotion to Grade-III vide order dated 21-12-1999 issued by the Under Secretary (Vety. & A.H), Government of Manipur. In support of his contention, the learned counsel appearing for the petitioner has relied upon the decision rendered by the Hon''ble Supreme Court in the case of M. Nagabhushana Vs. State of Karnataka and Others, AIR 2011 SC 1113 : (2011) 271 ELT 481 : (2011) 2 JT 23 : (2012) 1 RCR(Civil) 807 : (2011) 2 SCALE 160 : (2011) 3 SCC 408 : (2011) 2 SCR 435 : (2012) 27 STR 81 : (2011) AIRSCW 965 wherein the Hon''ble Supreme Court has referred to its earlier decision which has held that it is public policy that the decisions pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by appellate authorities; and the other principle is that no one should be made to face the same kind of litigation twice over, because such a process would be contrary to consideration of fair play and justice. Similarly, reliance has been in the case of Union of India (UOI) and Others Vs. Major S.P. Sharma and Others, (2014) 3 JT 611 : (2014) 3 SCALE 484 : (2014) 6 SCC 351 wherein the Hon''ble Supreme Court has held that the Hon''ble Supreme Court has an extensive power to correct an error or to review its decision but that cannot be done at the cost of doctrine of finality. Further reliance has been made in the case of R. Unnikrishnan and Another Vs. V.K. Mahanudevan and Others, AIR 2014 SC 1201 : (2014) AIRSCW 596 : (2014) 1 JT 450 : (2014) 1 SCALE 305 : (2014) 4 SCC 434 : (2014) 2 SCC(L&S) 135 wherein the Hon''ble Supreme Court has held that the binding character of the

judgments pronounced by the court of competent jurisdiction has always been treated as an essential part of the rule of law which is the basis of administration of justice in the country. It is further submitted by the learned counsel for the petitioners that there is nothing wrong in the Government order dated 21-12-1999 which had been issued in compliance with the court's order dated 27-05-1998. The impugned order dated 31-07-2013 which sought to declare the earlier court's order dated 21-12-1999 as null and void, is absolutely illegal and had been issued on erroneous assumption that the order dated 21-08-2009 passed by the Hon'ble High Court, Imphal Bench in M.C.(W.P.(C)) No. 149 of 2009 allowing the respondents therein to review the proceedings of the Review DPCs, had allowed the respondents to review the proceedings of the DPC, convened on 17-12-1999 and 20-12-1999, which was not a review DPC at all.

8. Shri S. Napoleon, the learned Government Advocate has submitted that it is not an issue that the order dated 27-05-1998 passed by the Hon'ble Gauhati High Court, Imphal Bench has attained finality. His contention is that the said order dated 27-05-1998 was only to consider the petitioners for promotion to Grade-III of the Manipur Veterinary & Animal Husbandry Services. It was a mistake on the part of the State respondents to convene the said DPC on 17-12-1999 and 20-12-1999 and to issue the Government order dated 21-12-1999 thereon for the reason that the DPC can be convened only after the initial constitution of the Manipur Veterinary & Animal Husbandry Services and Select lists prepared accordingly and that the basis of convening the said DPC being the Government order dated 22-05-1999 which had ordered for initial appointment of the incumbents including the petitioners, had already been set aside vide judgment and order dated 19-11-1999 passed by the Hon'ble Gauhati High Court, Imphal Bench in W.A. No. 49 of 1999 and moreover, the recommendation of the 3rd Review DPC, on the basis of which the said Government order dated 22-05-1999 was issued, had also been superseded by the subsequent Review DPCs. To substantiate his contention, the learned Government Advocate has relied upon the decision rendered by the Hon'ble Supreme Court in the case of Union of India (UOI) and Another Vs. Narendra Singh, (2008) 2 CLT 778 : (2008) 116 FLR 448 : (2007) 14 SCALE 364 : (2008) 2 SCC 750 : (2008) 1 SCC(L&S) 547 : (2008) 2 SLJ 412 wherein the Hon'ble Supreme Court has held as under:

"32. It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected following the process of law. In ICAR v. T.K. Suryanarayan it was held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It may cause hardship to the employees but a court of law cannot ignore statutory rules."

It is also the contention of the learned Government Advocate that by order dated

21-08-2009 passed by the Hon''ble Gauhati High Court in M.C.(W.P.(C)) No. 149 of 2009 [Ref: W.P. (C) No. 1 of 2009], the State respondents were allowed to review the proceedings of the 5th Review DPC held on 24-05-2008 and all other consequential orders and proceedings issued based on the recommendations of the earlier DPC proceedings and in compliance with the said order dated 21-08-2009, the proceedings of the DPC convened on 17-12-1999 and 20-12-1999 were reviewed and the impugned order dated 31-07-2013 was issued by the State Government.

9. Having heard the learned counsels appearing for the parties, this court is of the view that the contention of the learned counsel appearing for the petitioner that the order dated 27-05-1998 passed by the Hon''ble Gauhati High Court, Imphal Bench in C.R. No. 336 of 1997 has attained finality and the Government order dated 21-12-1999 promoting the petitioners to Grade-III was issued on the recommendation of the said DPC convened on 17-12-1999 and 20-12-1999 has some force. After the order dated 18-01-1999 having been passed in Contempt Case (C) No. 11 of 1999, on the basis of the submission of the counsel for the respondents therein, directing that compliance order be issued in three months, the Under Secretary (Vety. & A.H) vide his letter dated 22-11-1999 sent a requisition for filling up of vacancies in respect of Grade-III and in response thereto, the Deputy Secretary, MPSC addressed to him a letter dated 04-12-1999 informing that the DPC be held on 17-12-1999. In his affidavit filed on 13-12-1999 in the second Contempt Case (C) No. 238 of 1999, the then Commissioner (Vety. & A.H) has stated that the Seniority List was published on 18-11-1999 and only thereafter, the said requisition was sent on 22-11-1999 and the delay was unavoidable. Since the learned Government Advocate has not disputed the law laid down by the Hon''ble Supreme Court in the cases cited above as regards finality of court's order, nothing is required to be observed in the judgment anything about the court's order dated 27-05-1998 having attained finality. However, the learned Government Advocate has given emphasis to his submission that it was a mistake for the State Government to convene the said DPC on 17-12-1999 and 20-12-1999 and to issue the Government order dated 21-12-1999, thereafter, promoting the petitioners on the basis of the recommendation of the said DPC. It is also the contention of the learned Government Advocate that only after the Hon''ble Gauhati High Court, Imphal Bench vide its order dated 21-08-2009 being passed allowing the State Government to review the proceedings of the 5th Review DPC and all further consequential orders and proceedings issued based on earlier recommendations of the DPC, the Government order dated 21-12-1999 was reviewed and declared as null and void vide its impugned order. These contentions of the learned Government Advocate are not sustainable in law in so far as the impugned Government order is concerned. It may be true that it was a mistake on the part of the State Government but in the impugned Government order dated 31-07-2013, it is nowhere stated that the same was being issued by the State Government to rectify the said mistake, as contented above, realised after about

13 years. This theory of mistake appears to have been discovered and realised recently only after the impugned Government order was issued. Moreover, the Government order dated 21-12-1999 was reviewed by passing the impugned order dated 31-07-2013 mainly on the ground that the State Government was allowed to do so vide Court's order dated 21-08-2009. From the perusal of the said court's order 21-08-2009, it is absolutely clear that the State Government's understanding or assumption thereof was totally erroneous. The first para of the said order makes it very clear that the prayer in the application was for allowing the State Government to review the proceedings of the 5th DPC held on 24-05-2008 and the consequential Government order dated 27-05-2008 issued on the basis thereof. The said application appears to have nothing to do with the Government order dated 21-12-1999. The last para of the order also does not mention anything about the Government order dated 21-12-1999 or the proceedings of the DPC convened on 17-12-1999 and 20-12-1999 on the basis of which it was issued and it merely states that the State Government is allowed to review the proceedings of the 5th Review DPC and all consequential orders and proceedings based on the earlier recommendations of the DPCs held for initial constitution of the Manipur Veterinary & Animal Husbandry Services. Since the DPC convened on 17-12-1999 and 20-12-1999 was a regular DPC and not a Review DPC for initial constitution at all, the court's order dated 21-08-2009 cannot be said to have allowed the State Government to review the Government order dated 21-12-1999. In view thereof, this court is of the view that the impugned order dated 31-07-2013 is bad in law for the reasons stated above.

10. The above contention of the learned Government Advocate that it was a mistake on the part of the State Government to convene DPC on 17-12-1999 and 20-12-1999 and to issue the Government order dated 21-12-1999 thereon merits consideration for grant of appropriate relief in the facts and circumstances of the present case including the subsequent events that took place after the impugned order was issued by the State Government. As has been stated in the preceding para, this theory of mistake appears to have been discovered and realised later. But the fact remains that mistakes are mistakes and can always be corrected following the process of law as has been held by the Hon'ble Supreme Court in the case of Union of India & anr v. Narendra Singh (supra) and it cannot be in dispute that after the said Rules, 1994 came into operation, the initial constitution of the Manipur Veterinary & Animal Husbandry services became indispensable as mandated in Rule 7 of the said Rules, 1994 and only after initial constitution being final, the regular DPC could be convened in terms of Rule 6 for appointment on promotion. The initial constitution of the Manipur Veterinary & Animal Husbandry services could not be made final for a number of years on account of the various proceedings of DPC/Review DPCs, convened for that purpose, being challenged and interfered by the Hon'ble High Court. Prior to the DPC being convened on 17-12-1999 and 20-12-1999, the Government order dated 22-05-1999 constituting initially the Manipur Veterinary & Animal Husbandry services on the basis of the recommendation of the 3rd Review DPC

had already been set aside vide judgment and order dated 19-11-1999 passed by the Division Bench, Hon''ble Gauhati High Court, Imphal Bench in W.A. No. 49 of 1999. In other words, the basis for convening the DPC on 17-12-1999 and 20-12-1999 had disappeared but this fact was not brought to the notice of the Hon''ble Gauhati High Court, Imphal Bench while the Contempt Case (C) No. 238 of 1999 was being taken up for consideration and instead of doing that, the State Government assured the Hon''ble High Court that the court's order be complied with. This callous attitude of the State Government has unnecessarily created the problem. The only thing that the State Government could have done, was that the State Government, after having considered the cases of the petitioners for promotion to Grade-III in compliance of the court's order dated 28-05-1998, could have informed the Hon''ble High Court while the Contempt Case (C) No. 238 of 1999 was being taken up for consideration that it was impossible for the State Government to proceed further in view of the judgment and order dated 19-11-1999 passed by the Hon''ble Gauhati High Court, Imphal Bench in W.A. No. 49 of 1999 setting aside the Government order dated 22-05-1999 which constituted the said service for the 3rd time.

In fact, the whole controversy as regards the Manipur Veterinary & Animal Husbandry Service is the creation of the State Government. Although the State Government is a party in all the proceedings, be it a writ petition by the petitioners or a writ petition filed by somebody else challenging the initial constitution, it has miserably failed to bring to the notice of the Hon''ble High Court the pendency of one petition or any order passed therein while the other petition was being considered by the Hon''ble High Court as a result of which the Hon''ble High Court had passed inconsistent orders. The State Government ought to have requested the Hon''ble High Court that all the matters, connected to each other in some way or other, be heard together so as to avoid such controversy. The Manipur Veterinary & Animal Husbandry services has ultimately been constituted on the basis of the recommendation of the 6th Review DPC which came to be challenged by one Dr. Laitonjam Thoithoi Singh in W.P.(C) No. 515 of 2012. This court vide its judgment and order has set aside a portion of the recommendation of the 6th Review DPC as regards the adjustment of respondent No. 7 therein against Grade-III but has directed that the rest of the said recommendation shall remain intact and is not interfered with. Since the initial constitution has become final, the State Government has issued various orders dated 02-07-2012, 31-12-2012, 24-12-2013, 18-02-2014 and 28-02-2015 appointing many Veterinary officers on promotion to different Grades on the basis of the recommendations of DPCs constituted under Rule 6 of the said Rules, 1994. So far as the Government order dated 18-02-2014 is concerned, it is no doubt true that it shall be subject to the outcome of the cases pending as regards the appointment/seniority of the petitioners. Having regard to the fact that the said DPC, convened on 17-12-1999 and 20-12-1999, had been convened before the initial constitution became final and that the petitioners have not challenged the recommendation of the 6th Review DPC and the initial

constitution effected on the basis thereof and the various Government orders as stated above, this court is of the view that the mere setting aside the impugned order dated 31-07-2013 will not solve the problem at all and it will, on the contrary, upset the position which has remained settled after the initial constitution of the Manipur Veterinary & Animal Husbandry Services and may even open floodgate of litigations. Keeping in mind the aforesaid circumstances, an appropriate relief has been moulded so as to avoid further controversy and this court is not prepared to set aside the impugned order but to dispose of the petition with a direction. It has been brought by the learned Government Advocate to the notice of this court that in terms of the order dated 11-11-2013 passed by this court, the petitioners were being allowed to continue to hold Grade-III post with its pay and allowances till when they were appointed on promotion to Grade-III vide Government order dated 18-02-2014.

11. In view of the above observations and the peculiar facts and circumstances of the present case, the present writ petitions are disposed of with the direction that the services rendered by the petitioners holding Grade-III posts, with its pay & allowances, for the period from 21-12-1999 to 17-02-2014 shall be counted for purpose of fixing their present pay & allowances after the petitioners having been promoted vide Government order dated 18-02-2014; for grant of pension and pensionary benefits and not for purpose of seniority. There shall be no order as to costs.