
(2017) 01 MAN CK 0018
In the Manipur High Court
Case No : 55 of 2016

The State of Manipur represented by The
Commissioner(Higher & Technical Education), Government of
Manipur, & Anr.

APPELLANT

Vs

Dy. Y. Ibehaibi Devi, & Ors .

RESPONDENT

Date of Decision : 27-01-2017

Acts Referred:

[Manipur Services\(Revised Pay\) Rules, 2010](#), Rule 7

Citation : (2017) 01 MAN CK 0018

Hon'ble Judges : R R Prasad, Kh. Nobin Singh

Bench : Division Bench

Advocate : A. Bimol Singh, S.Suresh Singh

Final Decision : Allowed

Judgement

1. This appeal is directed against the judgment and order dated 30.10.2015 passed by the learned Single Judge in WP(C)No. 145 of 2013 holding therein that the petitioners, who got retired in between 28.2.2006 to 31.7.2008 from the post of Associate Professors and one petitioner from the post of College Librarian are entitled to monetary benefits w.e.f. 1.4.2010.

2. The facts which are relevant leading to filing of the aforesaid writ application are that pursuant to revision of pay of the Universities and College Teachers by the UGC, the State Government, upon being represented by the teachers relating to adoption of the UGC scale also and taking into account the recommendation of the Ministry of Human Resources Development, Govt. of India, Department of Higher Education and also the recommendation of the University Grants Commission, came with the notification dated 12.8.2011 revising the scale of the college teachers working under the Department of Higher Education. One of the clauses of the said notification, clause 3 does stipulate about the date of the enforceability of the said notification which reads as follows:

"3. These orders shall come into force notionally w.e.f. 01.01.2006 with monetary benefits from 1.11.2010 and actual cash payment from 1.7.2011. The arrears for the said period from 01.11.2010 to 30.6.2011 shall be deposited into their respective G.P.F. Accounts of the employees."

3. At the same time, Rule 7 does speak about the Rule relating to the pension etc. being applicable as that of other State Government employees. The said rule reads as follows: "7. Rules relating to pension, family pension, gratuity and encashment of Leave salary/ leave of any kind, Ex-gratia Compensation, Provident Fund of and New Pension Scheme now in force etc. shall be as applicable to other State Government employees."

4. Before the State Government had issued the said notification dated 12.8.2011, the State Government, keeping in view the introduction of the Manipur Services(Revised Pay) Rules, 2010 came with the Office Memorandum dated 5.5.2010 which relates to revision of provision regulating pension/gratuity/commutation of pension/family pension/disability pension etc. Clause 3.1 of the said Office Memorandum stipulates about enforceability of the said Memorandum which reads as follows: "3.1. Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 01/01/2006, notionally with effect from 01/01/2006 or from the date of retirement whichever is later, as the case may be, with cash payment/actual benefit from 01/04/2010. Separate orders have been issued in respect of employees who retired/died before 01/01/2006."

5. It be stated that in terms of the notification dated 12.8.2011 a monetary benefit was to be given with effect from 1.11.2010 but the petitioners, by virtue of the provision as contained in clause 3.1 of the office memorandum dt. 5.5.2010 stipulating about actual payment w.e.f. 1.4.2010, laid a claim of cash payment with effect from 1.4.2010 on the plea that the rules relating to pension etc. shall be applicable as that of the State Govt. under O.M. dated 5.5.2010 . However, according to the case of the petitioners that benefits given under the said O.M. dated 5.5.2010 was taken away by the office memorandum dated 24.12.2011 stipulating therein that actual benefit would be given w.e.f. 1.11.2010.

6. The petitioners who happened to be the retired Associate professors except one who happened to be a Librarian retired in between the period 28.2.06 to 31.7.2009 taking it adverse to their interest, preferred writ application and took the same plea that though under notification dated 12.8.2011 monetary benefit on account of revision of pay of the college teachers is to be given w.e.f. 01.11.2010 it would not be applicable in case of petitioners who got retired rather they would be entitled to get monetary benefits w.e.f.1.4.2010 as that of State Govt. employees by virtue of O.M dated 5.5.2010.

7. The stand taken on behalf of the State is that the teachers of the Universities/ colleges on account of revision of pay, as notified under the notification dated

12.8.2012 by the State of Manipur, would be entitled to monetary benefits w.e.f. 1.11.2010 as has been stipulated under clause 3 of the said notification and thereby the OM issued on 5.5.10 on account of revision of pay of the State Govt. employees would not be applicable and thereby claim of the petitioners that they are entitled to monetary benefits w.e.f. 1.4.2010 is untenable.

8. The aforesaid contention of the State was not accepted by the learned single Judge by holding that though the relevant provision of the notification dated 12.8.2011 speaks about monetary benefit being paid w.e.f. 1.11.2010 but since the said notification does stipulate that rule relating to pension shall be applicable to that of other government employees, the petitioners who got retired would be entitled to have monetary benefits w.e.f 1.4.2010 as stipulated under Office Memorandum dated 5.5.2010. Thus, question which does arise is as to whether learned single Judge, in the facts and circumstances, did arrive at a right conclusion ?

9. According to Mr. A. Bimol, learned counsel appearing for the appellant said Office Memorandum dated 5.5.2010 issued by the State Govt. could not be made applicable in case of the teachers of the colleges/Universities so far as it relates to effective date from which monetary benefit /arrear of pay is payable on account of revision of pay made by UGC in the case of college teachers, rather the teachers of Universities/colleges would be entitled to have monetary benefit/arrears of pay in terms of the notification dated 12.8.2011 which was issued by the State Govt. upon accepting the recommendation made by U.G.C. stipulating that it will come into force notionally w.e.f. 1.1.2006 with monetary benefit from 1.11.2010 but learned single Judge accepted the plea of the petitioners that since the petitioners got retired the provision relating to the pension and other retiral dues would be applicable as in the case of other State Govt. employees and thereby it was held that the petitioners would be entitled to have monetary benefit from 1.4.2010 as has been prescribed by the State Government under OM dated 5.5.2010 which is absolutely incorrect and is fit to be set aside.

10. Mr. Suresh, learned counsel appearing for the respondents submits that since the notification dated 12.8.2011 does speak that the rules relating to pension/family pension etc. shall be applicable to other State Govt. employees, the OM dated 5.5.2010 modifying the earlier rules relating to pension, does clearly speak that one would be entitled to cash payment w.e.f. 1.4.2010 and in that event learned single Judge was absolutely justified in arriving at to such proposition.

11. It be stated that pursuant to recommendation made by University grants commission and also upon resolution being taken by Ministry of Human Resources, Govt. of India relating to revision of pay, the Government of Manipur came with the revision of pay of the college teachers vide notification dated

12. 8.2011. The said order relating to revision of pay scale as per clause 3 of the said notification notionally came into effect from 1.1.2006 with monetary benefit from 1.11.2010 and actual cash payment from 1.7.2011. The arrears for the

period from 1.11.2010 to 30.6.2011 was stipulated to be deposited in the GPF Accounts whereas OM dated 5.5.10 was issued in the wake of revision of provisions relating to regulation of pension etc. on account of introduction of the Manipur Services (Revised Pay) Rules 2010. The clause 3.1 does stipulate that provision of it would come into effect from 1.1.2006 and monetary benefit was to be paid from 1.4.2010. Thus, it is evident that consequent upon revision of salary by virtue of Manipur Services (Revised Pay) Rules, 2010 applicable only in case of State Govt. employees the said Office Memorandum dated 5.5.10 dealing with the provision regulating revised pension was required to be issued necessarily stipulating therein about monetary benefit being paid from 1.4.2010. The provision relating to enforceability of the Office Memorandum and payment of monetary benefit on account of revision of pay was confined to the Government employees who were being governed by the Manipur Services (Revised Pay) Rules, 2010 whereas the notification dated 12.8.2011 relating to revised scale of pay of the college teachers was issued by the State Govt. upon acceptance of the recommendation of the UGC and Govt. of India and therefore the University teachers would be governed by the stipulation made in that notification which speaks about the monetary benefits being given to them w.e.f. 1.11.2010. The said stipulation has nothing to do with the matter relating to pension for the reason that monetary benefit which was to be given from 1.11.2010 may be related to persons in service and even the persons who got retired. However, if the proposition laid down by the learned single Judge is accepted, a situation which would be quite anomalous would come up whereby the teachers who are in service would be entitled to monetary benefit only w.e.f. 1.11.2010 whereas the retired employees would be getting monetary benefit from 1.4.2010. It be reiterated that dispute is with respect to the date from which teachers of the Universities/colleges will be entitled to have monetary benefits, which dispute never pertains to any rules relating to the pension and thereby there happens to be no applicability of any of the provisions of the OM dated 5.5.2010 whereby provision relating to pension was revised.

12. Under the circumstances, the learned single Judge by resorting to the provisions under the Office Memorandum dt. 5.5.2010 wrongly held that the petitioners would be entitled to monetary benefit w.e.f. 1.4.2010 and thereby order dated 30.10.2015 is hereby set aside. Consequently, it is held that the petitioners are entitled to have monetary benefit w.e.f. 01.11.2010 and not w.e.f. 1.4.2010. Accordingly, this appeal stands allowed.