
(2006) 07 GAU CK 0015
In the Gauhati High Court

Thoibi Devi, Manipur

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 24-07-2006

Acts Referred:

Citation : (2006) 07 GAU CK 0015

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

Bench : Single Bench

Advocate : R.S.Reisang, Kh.Tarun kumar Singh, Advocates appearing for Parties

Judgement

1. Heard Mr.Kh.Tarunkumar, learned counsel for the petitioner who submits that the petitioner is not sticking to the original reliefs sought for in the present writ petition, but only prays for a direction to the respondents to release due wages/ pay & allowances of the petitioner for working as GradeIV in the CHC, Nambol for the period she had rendered her services.

[2] Accordingly, this writ petition is taken up for disposal for the limited prayer.

[3] It is said that the petitioner was appointed as GradeIV on ad hoc basis for a period of three months w.e.f. the date she joins duty or till the post is filled up on regular basis whichever is earlier against the vacant post of one Shri Ksh Bino Singh, who retired on superannuation and posted at CHC Nambol under the Chief Medical Officer (CMO) Bishnupur vide order of the Director of Health Services, Government of Manipur dated 3.2.1999, copy of which is available at AnnexureA/2 to the present writ petition.

[4] It is said that the term of ad hoc service of the petitioner as GradeIV had been extended from time to time. Copies of some of the extension orders for extending the term of ad hoc period of the petitioner, i.e. order issued by the Director, Health Services, Government of Manipur dated 29.9.2000 and order dated 13.6.2001 issued by the Chief Medical Officer, Bishnupur are available at AnnexuresA/5 and A/7 to the present writ petition.

[5] The learned GA appearing for the respondents submits that under the order of the CMO, Bishnupur dated 13.6.2001 term of ad hoc period of the petitioner as GradeIV was extended only up to 2.2.2000. The learned GA further submits that thereafter there is no extension order for extending the term of ad hoc service of the petitioner as GradeIV.

[6] The learned counsel for the petitioner submits that as the extension orders for extending the term of ad hoc service of the petitioner had been issued post facto, the petitioner has been continuing to serve as GradeIV with the great hope and expectation that extension orders will be issued by the competent authority post facto.

[7] In order to substantiate the case of the petitioner that the petitioner is still working as ad hoc GradeIV, the learned counsel for the petitioner submits that the Chief Medical Officer, Bishnupur under his order dated 5.1.2005 requested the Director, Health Services, Manipur to obtain approval of the Government of Manipur for issuing the extension order for extending the ad hoc service of the petitioner. It is said that the Director, Health Services, Government of Manipur under his letter dated 4.1.2006 requested the Commissioner, Health, Government of Manipur for taking up necessary steps for extending the ad hoc service of the petitioner. For easy reference the said letter of the Director, Health Services, Manipur dated 4.1.2006 is quoted hereunder:

?GOVERNMENT OF MANIPUR MEDICAL DIRECTORATE

No.Apptt/ (Gr.IV)/96DHS

Imphal, the 4.1.06

To

The Commissioner (Health)

Government of Manipur.

Subject: Extension of ad hoc appointment in respect of Smt.S.Thoibi Devi, Gr. IV of Community Health Centre, Nambol.

Sir,

I have to forward herewith a copy of letter No.1/E4/89MBD (Pt) dt.17.9.2005 on the subject cited above and to say that Smt.S.Thoibi Devi was appointed as Gr.IV on ad hoc basis at CHC Nambol w.e.f. 3.2.1999 and extended from time to time upto 1.2.2000. Her service had been terminated w.e.f. 1.2.2000 vide CMO's Bishnupur order No.1/E4/89MBD (Pt.2) dt.13.6.2001 as per DP's OM No.12/13/92AD/DP (Pt) dt.4.5.2001.

However, her adhoc service was utilized for the period from 2.2.2000 to 13.6.2001 by the concerned officer to meet the requirement of Community Health Centre Nambol. The Chief Medical Officer, Bishnupur has requested for extension of ad hoc service of the above Gr.IV w.e.f. 2.2.2000 to 13.6.2002 vide

his letter No.1/Er/ 89MBD (Pt.2)/1266 dt.11.1.2002 and this Directorate had already submitted a proposal for extension for the period from 2.2.2000 to 13.6.2001 vide letter of even number dt.19.3.2002 (copy enclosed).

I am, therefore, to request you kindly to convey a decision of the Government at an early date.?

[8] It is said that the Under Secretary, Health, Government of Manipur also requested the Director, Health Services, Government of Manipur under his letter dated 27.1.2006 for furnishing the relevant papers and documents for further necessary actions. The CMO, Bishnupur also issued a certificate dated 25.3.2006 to the effect that the present petitioner had been allowed to continue in service and her service as Grade IV is highly required. For easy reference, the said letter of the Under Secretary dated 24.1.2006 and the said certificate issued by the CMO, Bishnupur dated 25.3.2006 are quoted hereunder:

?GOVERNMENT OF MANIPUR

SECRETARIAT: HEALTH DEPARTMENT

No.1/17/2006M Imphal, the 24.1.2006

To

The Director (Health), Manipur.

Subject: Extension of ad hoc appointment in respect of Smt.S.Thoibi Devi, Gr.IV, of community Health Centre, Nambol.

Sir,

I am directed to refer to your letter No.Apptt/ (Gr IV)/96DHS/6515 dated 4/1/2006 on the above subject and to request you kindly to furnish the relevant papers/documents for further necessary action.

Yours faithfully,

Sd/ Th.Khapudang,

Under Secretary to the

Government of Manipur.

? TO WHOM IT MAY CONCERN

DUTY CERTIFICATE

This is to certify that Smt.S.Thoibi Devi of Nambol Kongkham Awang who was appointed as Grade IV (Dhobi) on Ad hoc basis on 3.2.1999 was allowed to continue in her post by extending her service from time to time. Her service was discontinued by an order issued on 13.6.2001 by the CMO Bishnupur District, Manipur. But, as her service is highly required, she is allowed to attend the CHC Nambol to discharge her normal duties as there is no one to perform the duties

of Dhobi. Her service is highly required in the CHC Nambol and she is also attending the CHC regularly without getting her monthly salaries.

She is not related to me.

Dated/Bishnupur, the 25th March, 2006 Sd/

Chief Medical Officer,

Bishnupur District, Manipur.?

[9] The learned counsel for the petitioner submits that the utilization of the petitioner's service as GradeIV/Dhobi without payment of her due pay and allowances would amount to forced labour and it is in clear violation of right of the petitioner guaranteed under Article 23 of the Constitution of India.

[10] Having regard to the peculiar facts and circumstances of the present case, the respondents are directed to hold an inquiry as to whether the petitioner is still continuing as GradeIV from February, 2001 till date keeping in view of the said letter of the Director, Health Services, Manipur dated 4.1.2006 and letter of the Under Secretary, Government of Manipur dated 24.1.06 and certificate issued by the CMO, Bishnupur dated 25.3.2006 and in case the petitioner is found to have been serving as GradeIV on ad hoc basis, her pay and allowances should be paid for the period she rendered her services.

[11] The whole exercise should be completed within a period of 4 (four) months from the date of receipt of the judgment and order of this court. With the above observation and direction, writ petition is allowed.