
(2006) 04 GAU CK 0061
In the Gauhati High Court

Wangkhem Raghuchandra Singh

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Citation : (2006) 04 GAU CK 0061

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

Bench : Single Bench

Advocate : S.Rupachandra Singh, S.Nepolean Singh, Advocates appearing for Parties

Judgement

1. Heard Mr. S. Rupachandra Singh, learned counsel appearing on behalf of the petitioner as well as Mr. S. Nepolean Singh, learned Jr. G.A. to the learned A.G., Manipur appearing for all the respondents.

2. Neglecting all the details but the precise facts which give to rise to the filing of the present writ petition are that the petitioner was an employee of the Company called ?Manipur Plantation Crops Corporation Limited? (for short "MPCCL") and he was working in the capacity of Head Clerk. He retired on superannuation on 30.11.2001.

3. It is said that the Managing Director, MPCCL issued an orders being No.140/MPCC/G/83Pt.II, Imphal the 17th Sept., 1990 which reads as follows:

?Manipur Plantation Crops Corporation Ltd.

(A Government of Manipur Undertaking)

Lamphelpat, Imphal.

O R D E R S

Imphal, the 17th Sept., 1990

No.140/MPCC/G/83Pt.II: In pursuance of the Resolution No.6 of the 24th

Meeting of the Board of Directors held on 7.9.1990, the Manipur Service (Revision of Pay) Rules, 1989 be and is hereby adopted for similar posts to the employees of Manipur Plantation Crops Corporation Ltd.

Further, the Board resolved that adoption of revision of Pay of Govt. of Manipur services from time to time in toto would be adopted to the employees of the Corporation in public interest.

(Kh. Sudhendra Singh)

Managing Director

Manipur Plantation Crops Corpn. Ltd.? The Govt. of Manipur implemented the ROP, 1999 {i.e. Manipur Service (Revision of Pay) Rules, 1999.

4. By referring to the said orders of the Managing Director, MPCCL dated 17th September, 1990, the learned counsel appearing for the petitioner strenuously submits that the ROP 1999 shall be deemed to have been adopted by the MPCCL because of the last para of the said orders of the Managing Director, MPCCL dated 17.9.1990 which reads as ?Further, the Board resolved that adoption of revision of Pay of Govt. of Manipur services from time to time in toto would be adopted to the employees of the Corporation in public interest.? Since the ROP 1999 was adopted because of the said orders of the Managing Director, MPCCL dated 17.9.1990, the pay scale of the petitioner as Head Clerk should have been revised accordingly; but the petitioner was not allowed to enjoy the revised pay scale of the Head Clerk under the said ROP 1999 inasmuch as the petitioner was not allowed to enjoy the pension calculated according to the revision of pay scale under the ROP 1999. Hence, the present writ petition for a direction to the respondents to release pay and retirement benefits to the petitioner as per the ROP 1999.

5. The respondents also filed their affidavit in opposition. In the affidavit in opposition, the respondents had taken the plea that the Government taking into consideration of the financial condition and also by exercising the powers under the relevant provisions of the Companies Act, 1956 had issued the Office Memorandum being No.16/6/91PIC, Imphal, the 30th August, 1991 which reads as follows:

?GOVERNMENT OF MANIPUR

FINANCE DEPARTMENT

(Pay Implementation Cell)

OFFICE MEMORANDUM

Imphal, the 30th August, 1991

No.16/6/91PIC: Attention of the Government has been drawn towards the absence of specific guidelines on the terms and conditions of service in State Government Undertakings, etc. A Company/Corporation is a distinct legal entity

distinguishable from the Government and as such it is for the individual Corporation/Company to lay down detailed conditions of service for their employees to suit their requirements.

It is however, clarified that till such time as a Government Company/ Corporation lays down their specific detailed terms and conditions of service of their employees, are to apply the State Government rules and regulations framed in this behalf such as Fundamental Rules, Supplementary Rules, CCS(CCA) Rules, Conduct Rules, etc. It is however, further clarified that pay and pension rules shall not be applicable to Government Corporation ipso facto.

Orders relating to Pay, Allowances and Pensions in Government Companies/ Corporations will have to be issued by the individual organizations having regard to availability of funds, requirements of the organizations and other relevant factors.

(Dr.R.K. Nimai Singh)

Under Secy(PIC) to the Govt. of Manipur. Mr. S. Nepolean Singh, learned counsel submits that according to the said Office Memorandum of the Government of Manipur dated 30.8.1991, the pay and pension rules of the Government employees of the Government of Manipur shall not be applicable to the Government Corporations/Companies ipso facto. The respondents also filed additional affidavit in opposition stating that the Manipur Plantation Crops Corporation Limited has processed for adoption of ROP 1999 of the Government but not yet taken final decision. Such being the situation, the learned counsel appearing for the Corporation submits that the petitioner cannot enjoy the retirement pensionary benefits calculated as per the ROP 1999 if in case the Manipur Plantation Crops Corporation Limited adopted ROP 1999, the petitioner could enjoy the retirement and other service benefits calculated as per the ROP 1999. In order to substantiate the case of the respondents that the ROP 1999 has not yet been accepted by the Manipur Plantation Crops Corporation Ltd., the learned counsel for the respondents has placed the relevant file before this court. From the perusal of the File No.140/MPCC/G/ EAE/83Vol.II of the Manipur Plantation Crops Corporation Ltd., it appears that active process is going on as to whether the ROP 1999 will be accepted or not. Regarding the active consideration as to whether the ROP 1999 will be accepted or not in the Manipur Plantation Crops Corporation Limited, it will be clear from Note Nos. 154 to 163 of the said file of the Manipur Plantation Crops Corporation Limited. Mr. S. Nepolean Singh, learned counsel for the respondents also submits that till today, i.e. 18.4.2006, in compliance with the said Office Memorandum of the Govt. of Manipur dated 30.8.1991, the Manipur Plantation Crops Corporation Ltd. has not yet issued the necessary orders to the effect that pay revision, i.e. ROP 1999, has been adopted by the Manipur Plantation Crops Corporation Ltd. Such being the situation, according to the respondents, adoption of ROP 1999 by the Manipur Plantation Crops Corporation Ltd. is not yet finalized.

6. Be that as it may, taking into consideration of the submissions of the learned counsel for the respondents, this writ petition is disposed of with the directions to the respondents that the retirement benefits of the petitioner be calculated as per the ROP 1999 and available to him if in case the ROP 1999 is adopted by the Manipur Plantation Crops Corporation Ltd.. The respondents are also further directed to release the retirement and other service benefits of the petitioner which he has not yet received as expeditiously as possible but not later than 4(four) months from the date of receipt of the certified copy of this judgment and orders.

7. To the extend mentioned above, this writ petition is allowed. No costs.