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**(2006) 05 GAU CK 0068**  
**In the Gauhati High Court**

Yumnam Saratchandra Singh

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

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**Date of Decision :** 11-05-2006

**Acts Referred:**

**Citation :** (2006) 05 GAU CK 0068

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

**Bench :** Single Bench

**Advocate :** Th.Ibohal Singh, N.Umakanta Singh, N.Kerani Singh, Advocates  
appearing for Parties

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## Judgement

1. By this writ petition, the petitioner is asking for a direction to the respondents to take back the petitioner to his service as Headmaster of Primary Schools so as to enable him to complete 30 (thirty) years" qualifying service even if he attained the age of superannuation i.e. 58 years as per his date of birth i.e. 5.11.1945 on 30.11.2003(AN).

[2] Heard Mr.N.Kerani Singh, learned senior counsel assisted by Mr.N.Umakanta, learned counsel for the petitioner as well as Mr.Th.Ibohal, learned GA for the respondents.

[3] The fact, stated in short, of the petitioner"s case is that the petitioner passed ClassVIII standard in the year, 1956 from the Churachand High School, Imphal (now Churachand Higher Secondary School) and according to the admission register, his date of birth is 5.11.1945. The petitioner entered into Government service as Assistant Teacher on 1.3.1958 before attaining the age of 21 years because during the relevant time Boy Service was introduced in the Lowe Primary Schools under the Government of Manipur.

[4] It is said that his date of birth i.e. 5.11.1945 recorded in the Service Book was corrected as 1.1.1937 without giving any opportunity of being heard and notice to the petitioner and as such, he was prematurely made to retire from service w.e.f. 31.12.1994 vide order No.46/5/93ED(V)(I) dated 9.12.1994 issued

by the Director, Education (S), Government of Manipur. Being aggrieved by the said order of the Director, Education (S), Government of Manipur dated 9.12.1994 for retiring the petitioner prematurely, he approached this court by filing a writ petition being Civil Rule No.847 of 1998 for challenging the said order of Director, Education (S), Government of Manipur dated 9.12.1994 and also for a direction to reinstate the petitioner in service with all consequential benefits treating his date of birth as 5.11.1945. The said Civil Rule No.847 of 1998 was finally allowed by this court by passing judgment and order dated 8.5.1999 by quashing the said order of the Director, Education (S), Government of Manipur dated 9.12.1994 and also by directing the respondents to reinstate the petitioner in service with all consequential benefits treating his date of birth as 5.11.1945.

[5] In faithful compliance of the judgment and order of this Court dated 28.5.1999 passed in C.R.No,847 of 1998 the petitioner was taken back to service and allowed to continue in service by taking his date of birth i.e. 5.11.1945. It is an admitted fact of both the parties that the age of superannuation of an employee of Government of Manipur is 58 years. The FR & SR for the Central Government service or/Central Government employee is adopted by the Government of Manipur with modification and alteration and age of superannuation of an employee/servant mentioned in FR 56 will be 58 years for an employee in the service of Government of Manipur. As the petitioner attained the age of superannuation i.e. 58 years on 30.11.2003 by calculating his age of superannuation on the basis of his date of birth 5.11.1945 recorded in his Service Book and according to FR 56, he retired on superannuation on attaining the age of 58 years on 30.11.2003.

[6] The learned senior counsel appearing for the petitioner submits that even if the petitioner attained the age of superannuation on 30.11.2003 he should be allowed to continue in service for completion of 30 years by referring to Rule 48 of the Pension Rules. The learned senior counsel further submits that by referring to Rule 13 of the Pension Rules, service rendered by the petitioner before attaining the age of 60 years will not be counted for any purpose. By simple conjoined reading of Rule 13 and 48 of the Pension Rules, it is crystal clear that Rule 48 of the Pension Rules, has no over riding effect to FR 56 which deals with specifically about the retirement of an employee on attaining the age of superannuation and also that the Pension Rules 48 never says that the employee even after attaining the age of superannuation shall have the right to continue in service for thirty years qualifying service. But Rule 48 of the Pension Rules simply says that the employee may retire from service after completion of thirty years qualifying service. For such simple interpretation of Rule 13 and 48 of the Pension Rules and FR 56 it is not required to burden this court by referring to different decisions of the Apex Court

[7] For the reasons discussed above this court is of the considered view that the petitioner has no right to continue in service for completion of thirty years

qualifying service even after he attained the age of superannuation. The writ petitioner had misunderstood Rule 13 and Rule 48 of the Pension Rules and also the FR 56.

Accordingly, this writ petition is devoid of merit and hereby dismissed. No order as to costs.