

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WA No. 79 of 2022

(Ref:- WP(C) No. 211 of 2017)

1. The State of Manipur represented by the Commissioner (Power), Government of Manipur.
2. The Managing Director, the Manipur State Power Distribution Company Limited (MSPDCL), Imphal.
3. The Special Secretary, Pension Cell, Government of Manipur, Imphal.
4. The Treasury Officer, Thoubal District, Thoubal, Manipur.

... Appellants

-Versus-

1. Smt. Leimapokpam Ongbi Mema Devi, aged about 65 years, W/o Late L. Amu Singh of Thoubal Haokha Maning, P.O. & P.S. Thoubal, Thoubal District, Manipur.

... Respondent/ Writ Petitioner

2. The Accountant General, Manipur.
3. Mutum Subadani Devi, aged about 50 years, D/o Late Mutum Kanhai Singh, now at Thoubal Haokha Maning Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur.
4. L. Bikash Singh, aged about 22 years, S/o (L) Mutum Subadani Devi, a resident of Thoubal Haokha Maning, P.O. & P.S. Thoubal, Thoubal District, Manipur.
5. L. Kishan, aged about 19 years, S/o (L) Mutum Subadani Devi, a resident of Thoubal Haokha Maning, P.O. & P.S. Thoubal, Thoubal District, Manipur.

(...As per Court's order dated 06-05-2022 passed in MC(WA) No. 72 of 2022), LRs of the deceased respondent No. 3 are impleaded as respondents No. 4 and 5 respectively)

***... Proforma Respondents/
Writ Respondent Nos. 4 and 6***

-AND-

IN THE MATTER OF:

In Writ Petition (C) No. 211 of 2017

Smt. Leimapokpam Ongbi Mema Devi, aged about 65 years,
W/o Late L. Amu Singh of Thoubal Haokha Maning, P.O. &
P.S. Thoubal, Thoubal District, Manipur.

... Petitioner

-Versus-

1. The State of Manipur represented by the Commissioner (Power), Government of Manipur, Imphal.
2. The Managing Director, the Manipur State Power Distribution Company Limited (MSPDCL), Imphal.
3. The Special Secretary, Pension Cell, Government of Manipur, Imphal.
4. The Accountant General, Manipur.
5. The Treasury Officer, Thoubal District, Thoubal, Manipur.
6. Mutum Subadani Devi, aged about 50 years, D/o Late Mutum Kanhai Singh, now at Thoubal Haokha Maning Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

...Respondents

B E F O R E

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Appellants	::	Mr. S. Nepolean, GA
For the respondents	::	Mr. B. Prem Sharma, Advocate & Mr. S. Suresh, Advocate
Date of Hearing	::	21-04-2023
Date of Order	::	04-05-2023

O R D E R

A. Bimol Singh, J

[1] Heard Mr S. Nepolean learned GA appearing for the appellants, Mr B. Prem Sharma, learned counsel appearing for respondents No 1, 4 and 5 and Mr. S. Suresh, learned counsel appearing for respondent No. 2.

The present appeal had been filed challenging the order dated 20-12-2018 passed by the learned Single Judge in WP(C) No. 211 of 2017.

[2] The brief facts of the present case is that late Shri L. Amu Singh, who was serving as Section Officer in the Electrical Division No. III of the erstwhile Department of Electricity, Government of Manipur, took voluntary retirement from service w.e.f. 29-02-2004 and after his retirement, he was enjoying his pension till he died on 15-11-2016. Shri L Amu Singh had two wives namely, Smt. Leimapokpam (O) Mema Devi, the respondent No. 1 in the present writ appeal (hereinafter referred to as the “first wife”) and Smt. Mutum Subadani Devi, the respondent No. 3 in the present writ appeal (hereinafter referred to as the “second wife”). After the death of her husband, the first wife filed a writ petition being WP(C) No. 211 of 2017 before this court claiming that the second wife was trying to draw the family pension by neglecting her case and praying for directing the official respondents to initiate and complete the process for payment of family pension of the deceased husband in favour of the first wife.

[3] On being submitted that the first wife and second wife have come to an amicable settlement, the learned Single Judge disposed of the aforesaid writ petition by recording the terms and conditions of the amicable settlement arrived at between the first wife and second wife, which are as under:-

“(i) As regards the Family pension of late L. Amu Singh under PPO No. SM/22030, it is agreed that the Application No. 1 (Writ Petitioner) shall get 1/3 (one third) of the said pension amount from the month

of June, 2018 and the remaining 2/3 (two third) shall be enjoyed by the Applicant No. 2 (Respondent No. 6 in the writ petition)

- (ii) Both the Applicants shall given their corporation to the concerned officials to share the pension amount in the manner state above.*
- (iii) As regards the homestead of late L. Amu Singh under patta No. 171 (Part Old)/182 (New) covered by Dag No. 210 having an area of 0.25871 acres (0.1047 hectares) of Village No. 20, Houkha Manning, it has been agreed that the Applicant No. 1 (Writ Petitioner) shall get a portion measuring 42 feets from North to South on the western side and 49 feets from North to South on the Eastern side and 32 feets from East to West on the Northern side and 32 feets from East to West on the Southern side on the North Western corner of the said homestead and the remaining portion out of the whole homestead land is the share of the Applicant No. 2 (Respondent No. 6).*
- (iv) The Applicant No. 1 (Writ Petitioner) out of her said share of the said homestead shall keep a portion measuring 6 feet from North to South covering the entire length of her said share potion from East to West on the Northern side of her said portion touching the share portion of the Applicant No. 2 (Respondent No. 6 of the Writ Petition) which shall be used as the approach road of the Applicants.*

In terms of the settlement reached between the parties, this writ petition is disposed of."

[4] The State respondents preferred the present writ appeal assailing the order passed by the learned Single Judge only on the ground that family pension is not admissible to more than one widow of a "Hindu" Government servant as per Government of India's Decision No. (15) below Rule 54 of the CCS (Pension) Rules, 1977 as amended from time to time and that as per the clarification issued by the State Government in its Office Memorandum dated 21-06-1994, sharing the family pension by widows was not to be allowed where the death of the Government employee occurred on or after 28-01-1991, i.e. the date of adoption of Government of India's

[5]

Clarification and as such sharing the family pension by widows of a deceased Government employee is not permissible and accordingly, the agreement between the two wives is void as per Section 24 of the Indian Contract Act, 1872.

[5] During the pendency of the present writ appeal, the second wife expired on 19-05-2021 leaving behind a daughter and two sons. The daughter had already married and the two sons, who are the legal representatives of the deceased second wife have been brought on record as respondents No. 4 and 5 in the present writ appeal. The said two sons of the second wife filed two separate affidavits both dated 18-04-2023 stating inter alia that they are living together with the first wife and the first wife is looking after them and that they have no objection in recording the name of the first wife in the Pension Book and giving the family pension of their father to the first wife.

[6] Taking into consideration the fact that the second wife had expired during the pendency of the present writ appeal and also taking into consideration the affidavits filed by the two sons of the deceased second wife, we are of the considered view that the ground on which the present appeal had been filed no longer exist and due to the subsequent events which occurred after filing of the present writ appeal, there is no longer any impediment in giving the family pension of the deceased Government employee, namely Shri L. Amu Singh, in favour of the first wife.

[7] In view of the above, we disposed of the present appeal by directing the concerned authorities of the State Government to initiate and complete the process for payment of the family pension of the deceased Government employee, namely Late L. Amu Singh in favour of his first wife namely, Smt. Leimapokpam (O) Mema Devi. The whole process should be completed within a period of three months from today. The impugned order passed by the learned Single Judge is modified to the extent indicated above. Writ appeal is disposed of without any order as to cost.

JUDGE

ACTING CHIEF JUSTICE

FR / NFR

Devananda