

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 91 of 2020

Ngangom Iboton Singh, aged about 75 years, S/o (late) Ng. Gulamjat Singh, resident of Khongman Mangjil Mamang, Kongba Road, P.O. & P.S. Porompat and District Imphal East, Manipur, Pin- 795005.

-- -- -- ***Petitioners***

-Versus-

1. The State of Manipur through the Principal Secretary/ Commissioner/ Secretary, University & Higher Education, Govt. of Manipur, Imphal West, Manipur, Pin- 795001.
2. The Director, Higher & Technical Education, Govt. of Manipur, Nityaipat Chuthek, Imphal West, Manipur, Pin- 795001.
3. The Commissioner/Secretary (Finance), Govt. of Manipur, New Secretariat, Imphal West, Manipur, Pin – 795001.

-- -- -- **Principal Respondents**

4. The Principal, Ideal Girls' College, Akampat, Imphal East, Govt. of Manipur, P.O. & P.S. Singjamei, Pin- 795008.

-- -- -- **Proforma Respondent**

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner :: Mr. Kh. Tomba, Adv.
For the Respondents :: Mrs. L. Monomala, GA
Date of Hearing and
Judgment & Order :: 23.01.2023

JUDGMENT AND ORDER
(ORAL)

[1] Heard Mr. Kh. Tomba, learned counsel for the petitioner and Mrs. L. Monomala, learned GA for the respondents.

[2] Mr. Tomba, learned counsel for the petitioner represented that the he has filed the present writ petitioner seeking the prayer as follows :

- “i) Call for the records of the case and issue rule nisi calling upon the respondents/authorities concerned to show cause as to why the prayer prayed for by the petitioner shall not be granted. And, after hearing them make the rule absolute.*
- ii) Issue writ of mandamus and / or any other appropriate writ / order/ direction to the respondents / authorities concerned by directing them to release/ pay the amount of*

Leave Encashment of the petitioner to the tune of Rs. 4,28,080/(Rupees four lacs twenty eight thousand and eighty) only within a stipulated period.

iii) Pass any other appropriate writ/order/direction that this Hon'ble Court deems fit and just in the interest of justice."

[3] Mr. Tomba, learned counsel for the petitioner further stated that originally, the writ petitioner by namely, Smt. Th. Binashakhi Devi filed the above writ petition seeking the above prayers. While pendency of the writ petition, she died. Therefore, the Misc. Application in MC(WP(C)) No. 156 of 2022 has been filed to bring the LR by namely, Ngangom Ibotombi Singh who is the husband of the petitioner. Considering his case on 15.06.2022, the husband of the petitioner was brought on record.

[4] Mr. Tomba, learned counsel for the petitioner that though he has sought for larger prayer in the writ petition, he will restrict his prayer that if this Court is inclined to consider the lawyer notice of the petitioner dated 09.10.2019 the petitioner will be satisfied since the lawyer's notice is pending from 09.10.2019 without any further cause of action. Therefore, he prayed this

Court that the writ petition may be disposed of directing the respondents to pass appropriate orders on the lawyer's notice dated 09.10.2019 within a stipulated period of time.

[5] Mrs. L. Monomala, learned GA for the respondents has represented that the respondent No. 1 has filed counter affidavit on 20.01.2023 and she further argued that the petitioner's wife by namely Th. Binashakhi Devi originally in the writ petition, has retired from service on attaining the age of superannuation w.e.f. 29.02.2016 and also got pensionary benefits means (pension, death-cum-retirement gratuity, service gratuity, commutation of pension, family pension admissible at the time of retirement) except leave encashment.

[6] Mrs. Monomala, learned GA also represented that encashment of leave is the benefit granted under the CCS(Leave) Rules, and is not pensionary benefit. She also further stated that the matter of leave encashment is different from pensionary benefit and similar matters are also pending in the Department for other similarly situated incumbents. It is also pertinent to mention that in order to solve all the controversies in future, in connection with the leave encashment of petitioner and other similarly situated incumbents, the Department has

processed the file for recommendation of MPSC and other necessary steps for proper absorption of the incumbents, so as to enable the Department to pay off all the pending Leave Encashment made in one go. Therefore, due to pendency of the above before the MPSC, this writ petition may be dismissed.

[7] Considering the nature of arguments advanced by the petitioner as well as the claim made in the writ petition, the respondents themselves have admitted that the petitioner is entitled to any leave encashment provided and on the recommendation of the MPSC only, the process will go on.

[8] Apart from this, Mr. Tomba, the learned counsel for the petitioner himself has prayed this Court that the lawyer's notice dated 09.10.2019 may be considered and pass appropriate orders.

[9] Mrs. Monomala, learned GA for the respondents also made no objection and the respondents are ready to pass appropriate orders on then petitioner's lawyers notice.

[10] Therefore, without going into the merits and demerits of the case, I am inclined to pass the following orders :

- a) *this writ petition is disposed of.*
- b) *the respondents are directed to consider the petitioner's lawyer notice dated 09.10.2019 and pass appropriate speaking orders.*
- c) *the said exercise shall be done within a period of 3 (three) months from the date of receipt of a certified copy of this order.*

[11] With the above observation and directions, this writ petition is disposed of.

JUDGE

FR/NFR

Sushil