

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

CRP(CRP Art. 227) No. 13 of 2020

Mayanglambam Sushil Kumar Singh S/o (L) M.Sudhir
Singh by occupation retired IPS Officer of Babupara,
Opp. Telephone Bhawan, PO & PS Imphal, Imphal
West District, Manipur 795001.

.....Petitioner

-Versus-

1. Union of India represented by the Secretary to the
Government of India, Ministry of Home Affairs, North
Block, New Delhi - 110001.
2. The State of Manipur represented by Chief Secretary
(in charge of Home), Government of Manipur, Old
Secretariat (South Block), PO & PS Imphal – 795001.
3. The Department of Personnel and Administrative
Reforms, through the Commissioner –cum- Secretary,
Government of Manipur, Imphal – 795001.
4. The Department of Home through the Commissioner-
cum-Secretary, Government of Manipur, Imphal –
795001.
5. The Director General of Police, Government of
Manipur, Imphal – 795001.

..... Respondents

For the Petitioner	::	Mr. M. Ibohal, Advocate
For the Respondents	::	Mr. RK Umakanta, GA Mr. S. Vijayanand Sharma, Sr. PCCG
Date of Hearing and reserving Judgment & Order	::	16.03.2023
Date of Judgment & Order	::	30.03.2023

JUDGMENT AND ORDER

(CAV)

(M.V. Muralidaran, Acting C.J)

This Civil Revision Petition has been filed by the petitioner challenging the order dated 4.10.2018 passed in O.A.No.042/ 00173/2014; order dated 6.1.2014 passed in Contempt Petition No.31 of 2013 in O.A.No.230 of 2012 on the file of the Central Administrative Tribunal, Guwahati Bench and the order dated 9.12.2013 passed by the Deputy Secretary (DP), Government of Manipur.

2. Though the petitioner challenged the aforesaid orders in this revision, during the course of argument, the petitioner restricted the challenge only with regard to the order dated 6.1.2014 passed in the Contempt Petition No.31 of 2013, which was closed based on the order dated 09.12.2013.

3. Brief facts which led to the filing of the present civil revision petition are as follows:

The petitioner has filed O.A.No.230 of 2012 before the Central Administrative Tribunal, Guwahati Bench (Circuit Bench at Imphal) [hereinafter referred to as "*Tribunal*"] to direct the respondents to grant him IPS Junior Administrative Grade scale w.e.f. 1.9.1998 i.e. after 9 years from the date and year of allotment and selection grade scale and supertime scale from the date when his immediate junior W.Meenakumar Singh (since deceased) was promoted. By the order dated 4.3.2013, O.A.No.230 of 2012 was disposed of and the matter was remitted to the respondents for fresh adjudication by taking into consideration the order passed by the department by giving year of allotment retrospectively from 1989 and was given seniority to the post of IGP between Rakesh Ranjan and Meenakumar Singh and the said exercise was directed to be completed within a period of three months from the date of receipt of a copy of the order. Thereafter, the petitioner has filed O.A.No.042/00173/2014 before the Tribunal seeking direction on the respondents to grant him IPS Junior Administrative scale w.e.f. 1.9.1998 i.e. after nine years from the date and year of allotment and direction to the respondents to grant IPS selection grade of

Rs.14300-400-18300 with effect from the date when his immediate junior Meenakumar Singh was granted the same and also to grant the petitioner regular supertime scale of Rs.37400-67000 with effect from 6.1.2007 when his immediate junior Meenakumar Singh was promoted to the post of IGP and grant him all monetary benefits therefrom. The petitioner also sought a direction to grant regular grade pay of Rs.10,000/- in Pay Band-4 with effect from 6.1.2007. By the order dated 4.10.2018, the said OA was dismissed. Thereafter, the petitioner has filed Contempt Petition No.31 of 2013 alleging non-compliance of the order made in O.A.No.230 of 2012 and by the order dated 6.1.2014, the contempt petition was closed recording the order dated 9.12.2013 passed by the Government of Manipur, whereby the claim made by the petitioner for rectification of date of appointment in the IPS, JAG scale, selection grade and supertime scale to 1989 was held to be not tenable. Challenging the same, the petitioner has filed the present civil revision petition.

4. Respondents 2 to 5 filed affidavit-in-opposition stating that the order dated 9.12.2013 was passed in due compliance of the order dated 4.3.2013 made in O.A.No.230/2012 and the Contempt Petition No.31 of 2013 was disposed of as complied vide order dated 6.1.2014. The order

dated 9.12.2013 was accepted as compliance by the Tribunal and the contempt petition was closed. Both the orders dated 9.12.2013 and 6.1.2014 have not been challenged by the petitioner. After taking into consideration the order dated 9.12.2013, the order dated 4.10.2018 came to be passed. It is stated that the Tribunal after perusing the order dated 9.12.2013 was satisfied that the said compliance order was a speaking order passed by considering the case afresh and, as such, was of the view that nothing survives in the contempt proceedings as the order of the Tribunal has been complied with. It is stated that the Department of Personnel and Administrative Reforms (Personnel Division), being the controlling department for organized services inclusive of the IPS, is competent to pass the order dated 9.12.2013 while exercising its power under Rule 24(i) of the Business of the Government of Manipur (Allocation) Rules, 2009. The petitioner has effective remedy under the act and rules, including the Contempt of Courts Act as well as under Article 226 of the Constitution of India. It is stated that the civil revision petition suffers from delay and laches and the unreasonable delay in filing the civil revision petition has not been properly explained. Hence, they prayed for dismissal of the revision.

5. Assailing the impugned order dated 6.1.2014 passed in Contempt Petition No.31 of 2013, the learned counsel for the petitioner argued that the Tribunal was not legally justified and competent to close the contempt petition based on the erroneous and unsustainable order dated 9.12.2013 passed by the authority concerned. Therefore, the same is liable to be set aside.

6. The learned counsel further submitted that as against the order dated 6.1.2014 passed in Contempt Petition No.31 of 2013, a revision will lie before the High Court under Article 227 of the Constitution of India for redressal of the grievance of the petitioner.

7. Adding further, the learned counsel submitted that the petitioner has got the order dated 6.1.2014 only in the first week of December, 2019 after his persistent and relentless search as the Tribunal had not had its regular sitting at Imphal Camp and thereafter, filed the present civil revision petition. Therefore, the delay in filing the civil revision petition is neither wilful nor wanton.

8. The learned counsel for the petitioner urged that the petitioner's claim for enjoyment of Junior Administrative Grade

scale w.e.f. 1.9.1998, IPS selection grade scale and IPS regular supertime scale etc. in his connected Original Application is continuing one and hence, the cause of action of his present civil revision petition cannot cease to exist only on the ground of delay/laches, which is beyond his control. Besides it, his claim if decided according to law shall give him a lawful monetary benefit and, hence, shall be his property within the meaning of Article 300A of the Constitution of India and, therefore, cannot be defeated by the illegal procedure adopted by the Tribunal. In support, the learned counsel placed reliance upon the decisions of the Hon'ble Supreme Court in the cases of **(1) L.Chandra Kumar etc. v. Union of India and others, (1997) 3 SCC 261 and (2) Hari Vishnu Kamath v. Syed Ahmad Ishaque and others, (1955) 1 SCR 1104.**

9. Per contra, the learned Government counsel appearing for the contesting respondents 2 to 5 submitted that the Tribunal after perusing the order dated 9.12.2013 was satisfied that the said order was a speaking order passed by considering the case afresh and, as such, was of the view that nothing survives in the contempt proceedings as the order of the Tribunal has been complied with and, accordingly, closed the contempt petition. The learned Government counsel would

submit that there is no error and/or infirmity in the order dated 6.1.2014 passed in the contempt petition. Hence, the claim of the petitioner questioning the competency of the Tribunal is totally baseless.

10. The learned Government counsel further submitted that the Department of P&AR, being the controlling department for organized services inclusive of the IPS, is competent to pass the order dated 9.12.2013 exercising its power under Rule 24(i) of the Business of the Government of Manipur (Allocation) Rules, 2009. Further, the petitioner has an effective remedy under the relevant act and rules, including Contempt of Courts Act as well as under Article 226 of the Constitution of India, and the present revision would not lie. Thus, a prayer has been made to dismiss the civil revision petition.

11. We have considered the submissions made by learned counsel for the parties and also perused the materials available on record.

12. In this civil revision petition, the petitioner has restricted his challenge to the order dated 6.1.2014 passed in the Contempt Petition No.31 of 2013, which was closed based on the compliance order dated 9.12.2013 issued by the competent

authority. The Contempt Petition No.31 of 2013 has been filed alleging violation of the order of the Tribunal dated 4.3.2013 passed in O.A.No.230 of 2012, which was filed to issue a direction on the respondents therein to grant the petitioner IPS Junior Administrative Grade Scale with effect from 1.9.1998 i.e. after 9 years from the date and year of allotment and selection grade scale and supertime scale from the date when his immediate junior W.Meenakumar Singh (since deceased) was promoted.

13. The order dated 6.1.2014 passed in Contempt Petition No.31 of 2013 reads thus:

“None appeared on behalf of the petitioner. Mr.s.Sharma, learned Govt. counsel, Manipur assisted by Mr.K.N.Deka, learned counsel is present for the contemnners.

This Tribunal vide order dated 04.03.2013 passed in OA.No.230/2012 directed the respondents to adjudicate the representation of the petitioner within three months afresh. It was submitted by Mr.Sharma that vide order dated 09.12.2013, the Govt. of Manipur, Department of Personnel and Administrative Reforms (Personnel Division) considered the case afresh and passed speaking order that, “in view of the above facts and circumstances stated

above, the Governor of Manipur is pleased to dispose of the claims of Shri Sushil Kumar Singh, IPS (Retd) contained in his application dated 13.03.2013 for rectification of date of appointment in the IPS, JAG Scale, Selection Grade and Supertime Scale to 1989 as not tenable.

In view of the passing of the aforesaid order, nothing survives in this proceeding as the order has been complied with. Accordingly, CP is closed. Notices are discharges. Copy of the order dated 09.12.2013 shall be kept in record.”

14. It would be appropriate to quote the order dated 9.12.2013 issued by the competent authority hereinunder for ready reference:

“GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR MANIPUR
Imphal, dated the 9th December, 2013

No.18/166/2012 - CAT/DP: Whereas the Central Administrative Tribunal, Guwahati Bench, Circuit Bench at Imphal in its Order dated 04-03-2013 passed in Original Application No 230 of 2012 filed by Shri M.Sushil Kumar Singh has directed the State Government of

Manipur to adjudicate the case of the applicant afresh by taking into consideration the Order passed by the Department by giving year of allotment retrospectively from 1989 and being given seniority to the post of Inspector General of Police between Shri RakeshRanjan and W Meenakumar Singh;

2. And whereas Shri M Sushil Kumar Singh IPS (Retd) submitted an application dated 13-03-2013 for rectification of date of grant of IPS-JAG Scale wef 1998 and Selection Grade Scale and Supertime Scale and his rank pay from the date of his immediate junior Shn W. Meenakumar Singh. IPS in pursuance of the Hon'ble CAT's Order dated 04-03-2013 passed in OA No 230 of 2012;

3. And whereas the State Government has considered the application dated 13- 03-2013 of ShriM.Sushil Kumar Singh, IPS (Retd.) with reference to the Hon'ble CAT's Order dated 04-03-2013 passed in OA No 230 of 2013 and has observed the following:-

(a) that, the cases of Shri Th.Ibobi Singh, IFS and Shri M Sushil Kumar Singh, IPS are dissimilar as the case of Shri Th.Ibobi Singh, IFS was allowed due to delay in Triennial Cadre review of the IFS Cadre

Strengths of Joint Manipur-Tripura Cadre in terms of Hon'ble CAT's Order dated 20-01-1999 passed in OA No 15 of 1995;

(b) that State Government had already granted relief to Shri M Sushil Kumar Singh, IPS by issuing necessary Orders for rectifying the allotment year for promotion of Inspector General of Police in the IPS Supertime Pre-revised Scale of Rs.18,400-450-22400/- [PB-4Rs.37,400-Rs.67,000/- plus Grade Pay of Rs.1000/- notionally with effect from 06-01-2007 i.e. with effect from the date on which his junior Shri W.Meenakumar Singh, IPS (MT 89) was promoted and regularly with effect from 01-09-2010 as per direction of the Hon'ble CAT's Order dated 31-08-2010 passed in O.A. No 68 of 2010;

In view of the above facts and circumstances stated above, the Governor of Manipur is pleased to dispose of the claims of Shri M.Sushil Kumar Singh, IPS (Retd.) contained in his application dated 13-03-2013 for rectification of date of appointment in the IPS, JAG Scale, Selection Grade

and Supertime Scale to 1989 as not tenable.

By Order & in the name of the Governor

*(Yumnam Robita)
Deputy Secretary (DP)
Government of Manipur”*

15. Relying upon the decisions of the Hon’ble Supreme Court in the cases of ***Hari Vishnu Kamath and L.Chandra Kumar***, supra the learned counsel for the petitioner submitted that the order dated 9.12.2013 passed by the Deputy Secretary (DP) is erroneous and unsustainable in law and based on the aforesaid order dated 9.12.2013, the Tribunal erred in closing the contempt petition, which needs to be interfered with by this Court exercising jurisdiction under Article 227 of the Constitution of India. In effect, it is the plea of the petitioner that since the High Court has power to supervise the decisions of the Tribunal, the present civil revision petition is very well maintainable before this Court and, thus, the order dated 6.1.2014 requires to be set aside.

16. In ***Hari Vishnu Kamath***, supra, the Hon’ble Supreme Court held as under:

“Looking at the substance of the matter, when once it is held that the intention of the

Constitution was to vest in the High Court a power to supervise decisions of Tribunals by the issue of appropriate writs and directions, the exercise of that power cannot be defeated by technical considerations of form and procedure.”

17. In **L.Chandra Kumar**, supra, the Hon’ble Supreme Court held:

“..... The Tribunals created under Article 323A and Article 323B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal.”

18. In the case on hand, admittedly, the petitioner is stated to be prejudiced by the order dated 6.1.2014 passed in

Contempt Petition No.31 of 2013. The contempt petition was closed by recording the compliance order dated 9.12.2013 rejecting the application of the petitioner dated 13.3.2013, which was filed pursuant to the direction dated 4.3.2013 passed in OA.No.230 of 2012.

19. As rightly argued by the learned Government counsel, if really the petitioner is aggrieved by the order dated 9.12.2013, he ought to have availed the remedy in the manner known to law. Similarly, if really the petitioner is aggrieved by the order passed in the contempt petition, he has to work out his remedy as per law. However, the petitioner has failed to avail of those remedies and invoked the jurisdiction under Article 227 of the Constitution of India, which in our considered view is not the correct course of action. When the petitioner has an effective and efficacious remedy under the relevant act and rules, the invocation of the revisional jurisdiction under Article 227 of the Constitution of India is unacceptable.

20. It is settled law that the Administrative Tribunals are alternative institutional mechanisms designed to be no less effective than the High Court, but, at the same time, not to negate the judicial review jurisdiction of the Constitutional Courts. The Administrative Tribunals are not assigned a status equivalent to

that of the High Court and, for the purpose of judicial review or judicial superintendence, they are subordinate to the High Court. The High Courts are creatures of the Constitution and their Judges hold constitutional office having been appointed under the Constitution of India. The Tribunals are creatures of statute and their members are statutorily appointed and hold a statutory office. There is no anathema in the Tribunal exercising jurisdiction of the High Court and in that sense being supplemental or additional to the High Court, but at the same time not enjoying a status equivalent to the High Court and also being subject to judicial review and judicial superintendence of the High Court.

21. While the powers of judicial review conferred on the High Court under Article 226 of the Constitution of India and the power of judicial superintendence conferred on it under Article 227 of the Constitution of India are, no doubt, wide, its exercise is hedged by self imposed limitations. The High Court would not exercise its power of judicial review akin to that of an appellate Court to hear and adjudicate the writ petition on its merits. In the exercise of its powers of judicial review, the High Court would not substitute its views for that of the Administrative Tribunal to come to a different conclusion or to examine the order on its merits and

hold that the Administrative Tribunal erred in not punishing the contemnors. In the exercise of its jurisdiction under Article 226/227 of the Constitution of India, the High Court would also not take upon itself the task of imposing punishment itself or to direct the Tribunal to do so.

22. In the light of the above legal position when we examine the instant case, as stated supra, the validity of the order dated 09.12.2013 passed by the authority concerned, in compliance of the order of the Tribunal dated 4.3.2013 in O.A.No.230 of 2012, should ordinarily be subject to challenge in independent legal proceedings before the Tribunal and not by invoking its jurisdiction to punish for contempt.

23. Once there is an order passed by the authority concerned on the basis of the directions issued by the Tribunal, there arises a fresh cause of action to seek redressal in an appropriate forum. In other words, the only remedy available to the petitioner to question the validity of the order passed in compliance of the order of the Tribunal, is to subject it to challenge in independent legal proceedings before the Tribunal and not by invoking jurisdiction under Article 227 of the Constitution of India.

24. The order dated 09.12.2013 of the authority concerned cannot be questioned under Article 227 of the Constitution of India. That apart, the petitioner questioned the order passed in the contempt petition after a lapse of 6 years and such an unreasonable delay in filing the present civil revision petition has not been satisfactory explained.

25. While the jurisdiction which this Court exercises under Article 226 of the Constitution of India is no doubt wide and its power of judicial superintendence under Article 227 of the Constitution of India can always be exercised to render substantial justice, that would not mean that the High Court would take upon itself the task of examining whether the Tribunal was justified in discharging the respondents holding that order has been complied with. In view of the above, we see no reason to entertain this civil revision petition.

26. It is pertinent to note that the direction given by the Tribunal in O.A.No.230/2012 dated 4.3.2013 has been implemented by issuance of the order dated 09.12.2013 and, as stated supra, the said order dated 09.12.2013 is only amenable to legal proceedings before the Tribunal, subject to satisfying the delay and latches.

27. For the foregoing reasons, the civil revision petition fails and the same is dismissed. No costs. It is open to the petitioner to challenge the order dated 09.12.2013 in independent legal proceedings before the Tribunal in the manner known to law and if any challenge is made, the Tribunal is at liberty to dispose of the same purely on merits and in accordance with law.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

Sushil