

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 242 of 2019

1. **Shri Salam Dhaneshwar Singh**, aged about 58 years, S/o (L) S. Yaimabi Singh of Kabowakching Village, P.O. & P.S. Nambol, Bishnuppur District, Manipur.
2. Smt. K. Pashot Devi, aged about 58 yeas, W/o O. Sanajaoba Singh of Oinam Village, P.O. & P.S. Nambol, Bishnupur District, Manipur.
3. Shri N. Ibemnungshi Devi, aged about 58 years, W/o Ch. Brajamani Singh of Kabowakching Village, P.O. & P.S. Nambol, Bishnupur District, Manipur.

...Petitioners

-Versus -

1. State of Manipur represented by the Commissioner/ Secretary, Education (S), at Manipur Secretariat, P.O. & P.S. Imphal, Pin – 795001.
2. The Director of Education (S), Government of Manipur, at Lamphelpat, P.O. & P.S. Lamphel, Pin – 795004.

.... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioners	::	Mr. O. Chittaranjan, Advocate
For the respondents	::	Mr. A. Vashum, Govt. Advocate.
Date of Hearing	::	19-10-2022
Date of Judgment & Order	::	10-01-2023

JUDGMENT & ORDER

[1] Heard Mr. O. Chittaranjan, learned counsel appearing for the petitioners and Mr. A. Vashum, learned Government Advocate appearing for the respondents.

[2] The facts of the present case in a nutshell is that the petitioner No. 1 was initially appointed as Substitute Teacher for a period of six months in Education (S) Department by an order dated 01-04-1991 issued by the Director of Education (S), Government of Manipur. The petitioner No. 2 was initially appointed as Assistant Arts Graduate Teacher on ad-hoc basis for a period of six months by an order dated 27-02-1991 issued by the Commissioner (Education), Government of Manipur. The petitioner No. 3 was initially appointed as Assistant Graduate Teacher on ad-hoc basis for a period of six months by an order dated 28-02-1991 issued by the Commissioner (Education), Government of Manipur. The period of ad-hoc services of all the petitioners were extended from time to time by the Government by issuing various orders and the petitioners rendered their services on ad-hoc basis continuously and without any break till the date they were appointed on regular basis.

[3] On the recommendation of the Screening Committee held on 29-08-1994 and 30-08-1994 and the approval of the Government, all the petitioners were appointed as Graduate Teachers on regular basis in the Education (S) Department by order dated 31-08-1994 issued by the Director of Education (S), Government of Manipur. Thereafter, the petitioners rendered their services as Graduate Teachers on regular basis. The present writ petition had been filed with the prayer for directing the respondents to consider the case of the petitioners for granting retrospective regularization with effect from the date of their initial ad-hoc appointment only for the purpose of pensionary and other retiral benefits.

[4] It is the case of the petitioners that they fulfilled all the essential qualifications prescribed in the relevant recruitment rules at the time of their initial appointment as Teachers in the Education (S), Department), Government of Manipur and they always discharged their duties very sincerely and faithfully and their superior Officers never found the petitioners unfit, unsuitable or inefficient in their service conduct and character.

It is also the case of the petitioners that since the date of their initial appointment on ad-hoc basis w.e.f. 01-04-1991, 27-02-1991 and 28-02-1991 till the date of their appointment on regular basis w.e.f. 31-08-1994, they continued to render their services as Graduate Teachers on ad-hoc basis uninterruptedly and without any break and according, they are entitled to have the period of their ad-hoc services to be counted as qualifying service for the purpose of pensionary and other retirement benefits. The pleaded case of the petitioners is that the State Government counted the period of ad-hoc services of many employees of the State Government who are similarly situated as the petitioners, as qualifying service for the purpose of pensionary and other retiral benefits, however the Government did not consider the case of the petitioners for such service link up. Feeling aggrieved, the petitioners submitted a representation dated 14-01-2019 to the concerned authorities of the State Government requesting for retrospective regularization of their service w.e.f. the date of their initial ad-hoc appointment for the purpose of availing pensionary and other retiral benefits.

[5] The learned counsel appearing for the petitioners submitted that the Hon'ble Gauhati High Court as well as this court have passed several judgments and orders in various writ petitions filed by many persons similarly situated as the petitioners wherein directions were given to the authorities to count the period of ad-hoc services rendered by those persons as qualifying service for the purpose of pensionary and other retiral benefits and that the State Government have implemented all those directions issued by the High Court by issuing various orders thereby allowing the linking up of the period of ad-hoc services as qualifying service for the purpose of pensionary and other retiral benefits. By way of giving instances, the learned counsel draw the attention of this court to the order dated 30-01-2001 passed by the Gauhati High Court in WP(C) No. 1450 of 2000 and judgment dated 06-03-2006 passed by the Gauhati High Court in WP(C) No. 1300 of 2005.

The learned counsel also draw the attention of this court to the orders dated 04-05-2001 and dated 27-09-2014 issued by the Secretariat, Education Department. On careful perusal of the aforesaid judgments and orders passed by the Gauhati High Court and this court as well as the aforesaid orders issued by the Government in compliance with the directions given by the High Court, it can be clearly seen that counting of continuous ad-hoc services rendered by ad-hoc employees prior to their regular appointment as qualifying service only for the purpose of pensionary and other retiral benefits were allowed. Accordingly, this court find considerable force in the submissions advanced by the learned counsel for the petitioners.

[6] In the affidavit-in-opposition filed on behalf of the respondents No. 1 and 2, the only stand taken by the respondents in opposing the claims of the petitioners is that the requirement for linking up the past ad-hoc services of the petitioners as provided under the DP's Office Memorandum dated 05-07-2003 is that their initial ad-hoc appointment should have been made on the recommendation of a duly constituted Selection Committee/ DPC and since the initial appointment of the petitioners were not recommended by a Selection Committee/DPC, they are not entitled to the relief claimed by them.

[7] Under the aforesaid DP's Office Memorandum dated 05-07-2003 providing linking up of services rendered on ad-hoc /officiating basis for counting as qualifying services for pension, it is clearly provided, inter alia at para 1(ii) of the said O.M. that in cases where the Hon'ble Court has directed the Government to regularise the services retrospectively with effect from the dates they were appointed on ad-hoc or officiating basis only for pensionary benefits, the court orders may be complied with in cases of ad-hoc employees who become regular appointee by way of direct recruitment duly recommended by a competent DPC. In view of such provisions provided under the said O.M. dated 05-07-2003 and the various judgments and orders passed by the Hon'ble Gauhati High Court and this court as well as various orders issued by the Government in compliance with the judgments and orders passed by the High Court allowing the counting of the period of past ad-hoc services rendered by ad-hoc employees prior to their regular appointment as qualifying service only for the purpose of pensionary and other retiral benefits, this court did not find any reasons or ground for not granting similar benefits to the

present petitioners for the simple reason that the petitioners are similarly situated with those ad-hoc employees.

In the result, the present writ petition is allowed by directing the respondents to consider the cases of the present petitioners for linking up the period of their past ad-hoc services from the date of their initial ad-hoc appointments till the date of their regular appointments as qualifying service only for the purpose of availing pensionary and other retiral benefits. It is made clear that the whole exercise should be completed within a period of two months from the date of receipt of a copy of this order.

With the aforesaid directions, the present writ petition is disposed of. Parties are to bear their own costs.

JUDGE

FR / NFR

Devananda