

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

W.A. No. 45 of 2023

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

Appellants

-Versus-

1. Smt. Potsangbam Ranjana Devi aged about 55 years, W/o Th. Ibochou Singh, a resident of Takyel Khongbal, Thoudam Leirak, P.O. Langjing, P.S. Lamphel, Imphal, Imphal West District, Manipur, Pin No. 795113.
2. The Principal Secretary/ Commissioner, Finance, Government of Manipur, New Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
3. The Commissioner/ Secretary (DP), Government of Manipur, New Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

Respondents

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

For the appellants :: Mr. Th. Vashum, Government Advocate

For respondent No. 1 :: Mr. L. Raju, Advocate

Date of order :: 08.11.2023

JUDGMENT & ORDER (ORAL)

Siddharth Mridul, C.J.:

[1] The present writ appeal has been instituted on behalf of the State of Manipur, assailing the judgment and order dated 10.01.2023 rendered by the learned Single Judge in W.P. (C) No. 726 of 2019, initiated by the private

respondent herein; thereby directing the State respondents to extend the ad-hoc service of the private respondent/writ petitioner for the period 01.04.2001 to 29.12.2016 as well as to release her salary for the said period within a time frame of two months from the receipt of the certified copy of the order.

[2] The facts, as are necessary for the adjudication of the present appeal, are briefly recapitulated as follows:

[3] The private respondent was initially appointed as Craft Instructor (Pottery) in the Directorate of Education (S), Government of Manipur, on ad-hoc basis for a period of three months by an order dated 01.07.1998 issued by the Director of Education (S). It is an admitted position that the period of ad-hoc service was extended from time to time till 31.03.2001 with the issuance of various orders with the approval of the Government. It would be pertinent at this juncture to point out that the extensions of the respective period of ad-hoc service of the private respondent was done ex-post facto on every occasion.

[4] When the ad-hoc service of the private respondent was not extended beyond the period of 31.03.2001, whilst she was still performing duty with the Government, the Zonal Education Officer, Zone-II, addressed the communication dated 22.09.2008 to the official respondent, requesting the Government to extend her ad-hoc service with effect from 01.04.2001 to 31.12.2008 and further to release payment of her back wages/salary for the relevant period.

[5] When the Government failed to extend the ad-hoc service of the private respondent and to release her back wages/salary as requested, the ZEO, Zone-II, again addressed communication dated 09.07.2010 to the official

respondent with a specific request for extension of ad-hoc service of the private respondent with effect from 01.04.2001 till the date of the said communication.

[6] On 14.02.2011, the Additional Director of Education (S/V) wrote a letter to the Commissioner of Education (S), requesting for extension of ad-hoc service of the private respondent with effect from 01.04.2001 till the date of the said letter.

[7] Eventually, a response was received to the aforesaid communication *vide* letter dated 24.03.2011 addressed by the Deputy Secretary, Education (S), requesting information in connection with the proposal for extension of the ad-hoc services of the private respondent.

[8] In response thereto, the Additional Director of Education (S/V) addressed a communication dated 21.04.2011 to the Deputy Secretary Education (S), stating *inter alia* that there were only 10(ten) ad-hoc employees, including the private respondent, whose ad-hoc service had not been extended and that the period of ad-hoc services to be extended varies as per their last date of extension

[9] In response thereto, the Deputy Secretary Education (S), considered it appropriate to request, *vide* communication dated 13.05.2011, verification by the Additional Director of Education (S/V) of the genuineness of the appointment orders issued to the ad-hoc employees, including the private respondent herein.

[10] In response thereto, the Additional Director of Education (S/V) wrote a letter dated 07.06.2011 addressed to the Deputy Secretary, Education (S) enclosing therein the list of 10 (ten) non-teaching ad-hoc employees, including the writ petitioner/private respondent, after due verification of the genuineness of their appointment orders along with relevant documents for extension of the period of

their ad-hoc service. It is an admitted position that the name of the private respondent appeared at serial No. 1 in the said list of 10(ten) non-teaching ad-hoc employees, forwarded by the Additional Director of Education (S/V).

[11] Subsequent thereto, must of the chagrin of the private respondent, the Principal Secretary of Education (S) issued an order dated 08.11.2012 extending the period of ad-hoc service of 10 (ten) non-teaching employees ex-post facto; however, the name of the private respondent was conspicuous by its absence in the said extension order.

[12] The private respondent, being aggrieved by the unceremonious and untenable exclusion without assigning any reason, approached this Court by way of W.P. (C) No. 997 of 2014 seeking redress of her grievances and the relief prayed for in the subject writ petition.

[13] The said writ petition was disposed of by this Court *vide* order dated 17.06.2015 directing the authorities to verify as to whether the private respondent had rendered service during the period claimed by her and, if upon verification, it was found that the private respondent had so rendered service during the period stated hereinabove, her entitlement should be calculated and arrears of pay and allowances be disbursed to her, within a period of six months.

[14] In compliance with the direction issued by this Court, as aforementioned, the Secretariat, Education Department, requested the Director of Education (S) to submit a detailed report as to whether the respondent had actually rendered her service or not. The Director, in turn, requested the Zonal Education Officer, Zone-II, to examine and verify as to whether the respondent had actually worked/rendered her service for the period form 01.04.2001 to 31.03.2011 and to

submit a comprehensive report along with relevant documents. It is an admitted position that *vide* communication dated 01.10.2015, the ZEO Zone II, submitted a report, clearly expressing therein, the circumstance that the private respondent had been rendering service in his office from the date of her initial appointment on ad-hoc basis till date without any break. In spite of the clear and unequivocal report furnished by the concerned ZEO, the appellant before us did not extend her period of ad-hoc service nor pay to her any of her back-wages. The private respondent was, therefore, constrained to approach this Court once again by filing CONT. CAS (C) No. 38 of 2016.

[15] At this juncture, it is relevant to observe that the Director of Education (S) issued a notification dated 28.12.2016 notifying to 502 (five hundred and two) ad-hoc employees of the department that a Special Class-III DPC for regularization of their service was scheduled on 30th to 31st December, 2016, at the Directorate of Education (S) and that all the concerned ad-hoc employees, including the private respondent, were to appear personally before the said DPC.

[16] Much to be shock and dismay of the private respondent, the Secretary of Education (S) *vide* order dated 30.06.2017, contrary to the admitted material on the record *inter alia* opined that the service of the private respondent was not liable to be extended beyond 31.03.2001 and that consequently she was disentitled to receive the pay and allowance with effect from 01.04.2001. When the respondent was unable to secure the regularization of her ad-hoc service for the subject period or obtain arrears of pay and allowances for the said period; particularly when she had uninterruptedly rendered service to the Directorate of Education; and in view

of the said communication dated 30.06.2017; she was yet again constrained to file the subject writ petition, out of which the present writ appeal arises.

[17] In response to the subject writ petition, the official respondent filed an affidavit-in-opposition, *inter alia* asseverating therein as follows:-

- “(iii) in response to the aforesaid Directorate letter the ZEO-Zone-II submitted his report vide letter No. 9/1/2000-ED(ZEO-II) dated 19-10-2019 & dated 30-11-2019 to the effect that enormous effort have been made to trace out the relevant files maintained in their office which indicate work allocation of Smt. P. Ranjana Devi but work allocation of Smt. P. Ranjana Devi during the period between 01-04-2001 upto 01-12-2009 is not available on record of their office. As per report her assignment of work was found allotted only in the year 2009 and 2011 to assist the work of Shri S. Ibomcha Singh, Accountant in the Account Section of the said ZEO Office. A statement given by Shri S. Ibomcha Singh is also enclosed stating therein that her performance of her duty attendance was not satisfactory and poor as well as irregular.
- (iv) With regard to the Attendance register, it has already been examined by the on the-spot inquiry team of this office in connection with the Contempt Case No. 38 of 2016 (reference W.P. (C) No. 997 of 2014) filed by the present petitioner and report along with relevant document has already been submitted vide its office letter No. 2/438/2014-ED(S) dated 2nd August, 2016 to the effect that some irregularities are found in her attendance.”

[18] The learned Single Judge, *vide* impugned order dated 01.10.2023 directed as follows:

“On a bear perusal of the impugned order as well as affidavit-in-opposition filed by the respondents No. 1 and 4, it is very clear that the authorities have never specifically deny the fact that the petitioner continue to render her service as Craft Instructor (Pottery) in the Office of the Zonal Education Officer, Zone-II, Education (S) Department, Government of Manipur even after the expiry of the extended period of her ad-hoc service. The petitioner continue to render her service on the legitimate expectation that the period of her ad-hoc service will be extended by the Government ex-post facto as done in the earlier occasions and the State Government also continue to utilize the service rendered by the petitioner without paying her any pay and allowances. The authorities of the State Government also neither deny nor reject the fact finding and verification report submitted by

the officials of the Directorate of Education (S) along with supporting documents to the effect that the petitioner rendered service even after expiry of the extended period of her ad-hoc service. Therefore, this court is of the considered view that the authorities cannot now make a self-serving statement that even if the petitioner continue to render service, it was without approval of the competent authority. The authorities cannot take advantage of their own wrongs and seek to deny the rightful benefits due payable for service actually rendered by the petitioner.

[17] This court cannot also ignore the fact that the authorities have repeatedly over-looked or ignored the case of the petitioner with regard to the proposals for extension of the period of her ad-hoc service and have denied the rightful and legitimate claim of the petitioner for extension of the period of her ad-hoc service and payment of her back-wages for the service actually rendered by her, while granting such benefits to other persons similarly situated with the petitioner, despite the directions given by this court in her favour in the earlier round of litigation as well as verification report submitted by the officials of the Education(S) Department in her favour. In my considered view, such actions of the authorities are nothing but absolute discrimination between the petitioner and other ad-hoc employees of the Education (S) Department who are similarly situated with the petitioner and accordingly, such actions of the authorities are ultra-vires of the equality clause enshrined in Article 14 and 16 of the Constitution and hence, not sustainable in the eye of law.

[18] On careful perusal of the order dated 30-03-2015 passed by this court in WP(C) No. 1016 of 2015, order dated 31-10-2017 passed in Contempt Case No. 187 of 2015 read with order dated 19-01-2018 passed by the Apex Court in SLP (C) No. 1037 of 2018, order dated 12-12-2018 passed by the Apex Court in SLP (C) No. 33264 of 2018, judgment and order dated 20-01-2022 passed by this court in WP(C) No. 560 of 2019 and order dated 01-06-2022 passed by this court in Writ Appeal No. 60 of 2022, this court also agree with the submission advanced by the leaned counsel for the petitioner that the issue raised in the present writ petition is squarely covered by the aforesaid judgment and orders and since the directions given therein have been complied with by the State Government by issuing necessary orders, the present writ petition can be disposed of by granting similar relief to the present petitioner.

[19] For the reasons and findings given hereinabove, this court is of the considered view that the petitioner is entitled to the relief sought for in the present writ petition. In the result, the present writ petition is allowed by quashing and setting aside the impugned order dated 30-06-2017 issued by the Principal Secretary, Education (S), Government of Manipur and by directing the authorities to issue necessary orders for extension of ad-hoc service of the petitioner for the period from 01-04-2001 till 29-12-2016 and to release the pay and allowances due payable to the petitioner. 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 cost."

[19] From a perusal of the material available on the record, it is evident that the Government of Manipur, be it for whatever reason, has steadfastly refused to accord to the private respondent herein, the pay and allowances duly earned by her for an extended period of time, whilst continuing to merrily utilize her service.

[20] The affidavit-in-opposition extracted hereinabove leaves no manner of doubt that the respondent had rendered regular service without a break to the official respondent, as certified by the ZEO Zone-II in his report dated 01.10.2015 without a break till 01.10.2015.

[21] The material on record completely belies the claim of the official respondent that the private respondent had either not rendered service during the entire period aforementioned or that her services were found to be poor and unsatisfactory.

[22] The above conclusion is further buttressed by the circumstance that the official respondent had themselves required the private respondent to appear before the DPC to be considered for regularization of her service.

[23] In this view of the case, we cannot, but express our dissatisfaction at the manner in which the State of Manipur and its authorities have continually harassed the private respondent by making her run from pillar to post for the wages rightfully due and payable to her for having rendered long years of service.

[24] In view of the foregoing, no grounds whatsoever, are made out by the appellants to interfere with the order rendered by the learned Single Judge

granting the private respondent the relief of ex-post facto extension of her ad-hoc service from 01.04.2021 till 29.12.2016, as well as the pay and allowances due and payable to her for the said period.

[25] Furthermore, in view of the circumstance that, we find that despite express directions, the private respondent has been unable to enjoy the fruit of the direction issued by this Court, by way of the impugned judgment and order, we consider it appropriate in view of our conclusion that the writ appeal is absolutely bereft of merit, to direct the official respondent to comply with the directions issued in the impugned judgment and order dated 10.01.2023 forthwith, along with costs of Rs. 50,000/- (Rupees Fifty thousand) to be paid to the private respondent within one month from the date of receipt of a copy of this order.

[26] The writ appeal is accordingly dismissed.

[27] Pending applications, if there are any, also stand dismissed.

JUDGE

CHIEF JUSTICE

FR/NFR

Sandeep