

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

WP (C) No. 380 of 2019

Thingom Joychandra Singh, aged about 63 years, S/o
Th. Tombi Singh, resident of Chingamakha Irom Leirak,
P.O. Imphal, P.S. Singjamei, Imphal West District,
Manipur- 795001.

... PETITIONER

-VERSUS-

1. The State of Manipur, represented by the Principal Secretary, Social Welfare (SW), Govt. of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur- 795001.
2. The Principal Secretary/Commissioner, Finance, Government of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
3. The Under Secretary (Pension Cell), Government of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
4. The Director, Social Welfare Department, Government of Manipur, North A.O.C., P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

5. The Union of India through the Accountant General, Manipur, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

... RESPONDENTS

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Petitioner :: Mr. Y. Nirmolchand, Sr. Adv.,
Mr. L. Raju, Adv.,
Mr. U. Augusta, Adv.,

For the Respondents :: Mrs.Ch. Sundari, GA
Mr. S. Samarjeet, Sr.PCCG

Date of Hearing and
reserving Judgment & Order :: 30.01.2023

Date of Judgment & Order :: **17.02.2023**

JUDGMENT AND ORDER
(CAV)

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the respondents to pay the due entitled monthly pension and gratuity to the petitioner with interest at 6% per annum.

2. The case of the petitioner is that he was serving as Deputy Director (WP) under Social Welfare Department, Government of Manipur and retired on attaining the age of superannuation with effect from 29.2.2016 AN vide Government Order dated 25.6.2016 issued by the Deputy Secretary (SW)

and the said order indicates payment of gratuity will be subject to the completion of vigilance case pending against the petitioner. According to the petitioner, the vigilance case has been closed and the Director of Vigilance Department had issued the integrity certificate stating that no case is pending against the petitioner.

3. Further case of the petitioner is that he has not involved in the alleged misappropriation and he was dragged in the vigilance case and his pension was withheld without any valid reason. Despite submission of the relevant documents for payment of pension in favour of the petitioner and also clearance of the vigilance case against him, the petitioner was not paid his entitled monthly pension and gratuity. Hence, the petitioner has filed the present writ petition.

4. The first respondent State filed affidavit-in-opposition stating that vide letter dated 19.8.2019, the Deputy Secretary (SW), Government of Manipur wrote a letter to the Accountant General informing that the High Powered Committee, in a meeting held on 6.8.2019, had closed the enquiry against the petitioner. Further, the Director of Social Welfare wrote a letter dated 20.9.2019 to the Senior Accountant

Officer/Pension, Accountant General, Manipur to complete and release pension and other retirement benefits of the petitioner.

5. The third respondent filed affidavit-in-opposition stating that the office of the third respondent received pension papers in respect of the petitioner from the Under Secretary, Social Welfare vide their letter dated 8.2.2017 and the same has been forwarded to the office of the Accountant General (A&E), Manipur vide letter dated 17.2.2017. Therefore, the third respondent is nothing to say in this writ petition.

6. The Principal Accountant General (A&E) filed affidavit-in-opposition inter alia stating that the office of the Accountant General only implements the decisions of the State authorities taken in accordance with law pertaining to GPF, pension and gazette entitlement. Thus, the Principal Accountant General/Accountant General is not responsible for the administrative function/decision of the State authority except for compliance of the decision of the State authority taken in accordance with law pertaining to GPF, pension and gazette entitlement.

7. Mr. Y. Nirmolchand, the senior counsel for the petitioner submitted that the petitioner was serving as Deputy Director (WP) under Social Welfare Department, Government of Manipur till 25.6.2016 when he was allowed to retire from service on attaining the age of superannuation with effect from 29.2.2016 and in the said order dated 25.6.2016, it has been specifically stated that payment of his gratuity would be subject to the completion of the Vigilance Case No.1/SP-V/2015 pending against him.

8. The learned senior counsel further submitted that to consider the alleged misappropriation of money and its recovery to the tune of Rs.90,67,371/- from the petitioner and six officials in the Social Welfare Department as per the recommendation of the State Vigilance Commission, a High Powered Committee was held on 5.11.2018 and the Committee after consideration of the report submitted by the Secretary, Social Welfare Department, came to the conclusion that the financial irregularities are not fully established with regard to the petitioner.

9. Mr. Y. Nirmolchand, the senior counsel for the petitioner urged that even though the enquiry of the High

Powered Committee was closed and no vigilance case pending against the petitioner, the respondents, particularly the first respondent, failed to issue sanction order for payment of the pension to the petitioner and harass the petitioner by withholding his entitled pension till date. Now the petitioner is suffering untold miseries due to want of entitled monthly pension and gratuity. Thus, a prayer has been made to direct the respondents to pay the entitled monthly pension and gratuity to the petitioner with interest at the rate of 6% per annum.

10. Mrs. Ch. Sundari, the learned Government Advocate appearing for the first respondent State submitted that the Director of Social Welfare, Manipur, vide letter dated 20.8.2019 addressed to the Senior Accounts Officer/Pension reminded that all pension papers which have been sent in respect of the petitioner vide letter dated 4.1.2017 remain unchanged and necessary arrangement for payment of pension and other retirement benefit in full may be done accordingly. Thus, the pension papers are pending with the Senior Accounts Officer/Pension and the first respondent has nothing to do with the pendency of the pension papers.

11. This Court considered the rival submissions and also perused the materials available on record.

12. The petitioner who was serving as Deputy Director (WP) under the Social Welfare Department, Government of Manipur retired from service on attaining the age of superannuation with effect from 29.2.2016 vide order dated 25.6.2016 issued by the Deputy Secretary (SW), Government of Manipur. In the said order dated 25.6.2016, it has been stated that payment of gratuity will be subject to completion of vigilance case pending against the petitioner. According to the petitioner, no vigilance case is pending against the petitioner and to that effect the Director of Vigilance, Government of Manipur had also issued integrity certificate.

13. The withholding of the entitled pension and other benefits of the petitioner by the respondent is on account of the alleged misappropriation of money and its recovery to the tune of Rs.90,67,371/- from 7 officials in the Social Welfare Department.

14. Since the petitioner has been denied the entitled monthly pension and gratuity, earlier, the petitioner has filed

W.P.(C) No.696 of 2017 for issuance of the writ of mandamus directing the respondents therein to pay him his entitled monthly pension and gratuity with accrued arrears within a stipulated time. By the order dated 12.10.2018, the said writ petition was disposed of and the operative portion of the order reads thus:

“[7] Accordingly, the instant writ petition stands disposed of in terms of the said order dated 24.7.2017 passed by this Court with the direction that any enquiry pending against the petitioner shall be concluded within 6 (six) months failing which the petitioner shall be entitled to pension and pensoinary benefit which will be subject to any order that may be passed by any competent authority or forum. It is further directed that petitioner be granted provisional pension as per rule within a period of 3 (three) months from today making it clear that any such retiral benefit which may be provisionally paid will be subject to any order that may be passed on conclusion of the said enquiry or any order that may be passed by the competent authority/Court.”

15. At this juncture, by referring to the Minutes of the Meeting of the High Powered Committed dated 5.11.2018, the

Mr. Y. Nirmolchand, the learned senior counsel for the petitioner submitted that the Committee has closed the enquiry in respect of the alleged misappropriation. The learned counsel for the petitioner also drew the attention of this Court to the report of the Director of Vigilance, Manipur dated 22.7.2017 and submitted that no vigilance case is pending against the petitioner.

16. On a perusal of the integrity report of the Director of Vigilance, Manipur dated 22.7.2017, it is seen that no vigilance case is pending against the petitioner. Since the enquiry of the High Powered Committee closed and integrity certificate was issued by the Director of Vigilance certifying that no vigilance case pending against the petitioner, there is no reason in not paying the entitled monthly pension and gratuity to the petitioner.

17. Time and again, the Hon'ble Supreme Court held that gratuity and pension are not bounties and an employee earns these benefits by dint of his long, continuous, faithful and unblemished service.

18. Right to receive pension is recognized as a right in property and a person cannot be deprived of his pension without authority of law, which is constitutional mandate enshrined in Article 300A of the Constitution of India.

19. In ***State of Uttar Pradesh v. Dharendra Pal Singh, (2017) 1 SCC 94***, the Hon'ble Supreme Court held that pension and gratuity are not any bounty to be distributed by the Government to its employees on retirement but are valuable rights in their hands and any culpable delay in disbursement thereof must be visited with penalty of payment of interest.

20. In the case on hand, though the integrity certificate was given on 22.7.2017 stating that no vigilance case is pending against the petitioner, the High Powered Committee had given its recommendation for closure of the enquiry only on 5.11.2018. The first respondent wrote a letter to the Senior Accountant Officer/Pension, Accountant General, Manipur (as per paragraph 5 of the affidavit-in-opposition) to complete and release pension and other retirement benefits of the petitioner on 20.8.2019. The aforesaid would show that there is no delay on the part of the respondent State in processing the pension papers. In fact, the pension papers of the petitioner was

received by the office of the first respondent from the Under Secretary, Social Welfare and the same has been forwarded to the office of the Accountant General (A&E) vide letter dated 17.2.2017 by the Under Secretary, Pension Cell, Government of Manipur. Therefore, the question of awarding interest in this case does not arise.

21. Since the first respondent wrote a letter to the Senior Accounts Officer/Pension, Accountant General, Manipur to complete and release regular pension and other retirement benefits of the petitioner, the non-payment of the entitled benefits to the petitioner is highly inappropriate. Therefore, the authorities concerned are duty bound to pay the entitled pension and gratuity to the petitioner.

22. In the result,

- (i) *The writ petition is allowed.*
- (ii) *The respondents are directed to pay the entitled pension and gratuity to the petitioner within a period of two months from the date of receipt of a copy of this order.*

- (iii) *If the respondent authorities failed to pay pension and gratuity within the period indicated above, the same shall carry interest at the rate of 6% per annum from due date.*
- (iv) *There will be no order as to costs.*

ACTING CHIEF JUSTICE

FR/NFR

Sushil