

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

**WP(C)No.491 of 2022**

1. Smt. Yengkhom Romibala Devi, aged about 59 years, w/o Dr. Thounaojam Kesho Singh, a resident of Kakching Turel Wangma Ningthou Pareng, Kakching District, PO/PS Kakching, Manipur, Pin-795103.
2. Shri Moirangthem Shantidash Singh, aged about 43, S/o (L) M. Krishnamani Singh, a resident of Kakching Wairi, Senapati District, PO/PS Kakching, Manipur, Pin-795103.
3. Smt. Noarem Renuka Devi, aged about 48 years, W/o. Thounaojam Nando Singh, a resident of Kakching Paji Leikai, Kakching District, P.O/P.S. Kakching Manipur, PIN – 795103.

***...Petitioners***

***- Versus -***

1. The State of Manipur represented by the commissioner/ Secretary (SCERT), Government of Manipur, Babupara, 795001.
2. The Commissioner/Secretary (Finance), Government of Manipur, Babupara, 795001.
3. The Director, SCERT (State Council of Educational Research Training), Government of Manipur, Lamphelpat, 795001.

***...Respondents***

BEFORE  
**HON'BLE JUSTICE MR. JUSTICE A. GUNESHWAR SHARMA**  
**ORDER**  
**(ORAL)**

19.12.2023

[1] Heard Mr. Y. Nirmolchand, learned senior counsel assisted by Mr. L. Raju, learned counsel for the petitioners and Mrs. CH. Sundari, learned GA for all the respondents.

[2] The case of the petitioners are that the petitioners No.1 was appointed as Graduate teacher under the State Council of Education and Research Training dated 21.06.1991, the petitioner No.2 vide order dated 11.12.2014 and petitioner No.3 vide order dated 11.12.2014 and their service conditions and salary are governed by the State Government rules as adopted for the employees of SCERT from time to time.

[3] In the Manipur Services R.O.P 2010 issued by the Government of Manipur, the date of enforcement of 6<sup>th</sup> Pay Commission was notionally from 01.01.2006 with cash payment from 01.04.2010.

[4] It is submitted that in the schedule of the R.O.P 2010 at serial No.37 with respect to State Council of Educational Research & Training, the pay upgradation with respect Primary Teacher, Under-Graduate Teacher

and Graduate Teachers were inadvertently omitted. The petitioners along with similarly situated employees of the SCERT submitted common representation to the Hon'ble Education Minister, Government of Manipur for inclusion of the posts left out in R.O.P. 2010. Vide order letter dated 24.01.2018, the Director, SCERT, Government of Manipur submitted a proposal to the Joint Secretary, SCERT for inclusion of the 6<sup>th</sup> Pay R.O.P. 2010 of the left out teachers i.e. Primary, Under-Graduate and Graduate teachers of SCERT and the matter was placed before the State Cabinet on 22.12.2018 and in pursuance to the Cabinet decision, an order dated 14.02.2019 was issued in exercise of the powers conferred under proviso to Article 309 of the Constitution of India whereby the left out posts of the SCERT i.e. Primary teacher, Under-Graduate Teacher and Graduate Teacher were to be included in the R.O.P 2010. However, in para 2 of the order dated 14.02.2019 which is impugned herein it is mentioned that effective date will be from 01.01.2019.

[5] The present writ petition is filed with the prayers to quash the impugned order dated 14.02.2019 particularly the words “ w.e.f. 01.01.2019” and to direct the respondents to make cash payment or arrear w.e.f. 01.04.2010 for petitioner No.1 and w.e.f. 11.12.2014 for petitioner Nos. 2 & 3 as prescribed under the Manipur Services(Revised Pay) Rules 2010 within a

stipulated period mainly on the ground that this R.O.P 2010 will be enforced notionally from 01.01.2010 and cash payment from 01.04.2010 for all the employees under the Government of Manipur.

[6] Mr. Y. Nirmolchand, learned senior counsel appearing for the petitioners submitted that the fixing of date of enforcement as 01.01.2019 in the order dated 14.02.2019 is violative of the principle of equality under Article 14 of the Constitution of India as all other employees of the State Government are getting cash payment including other employees of the same department(SCERT) from 01.04.2010. It is stated that the lapse is not on the part of the petitioners. He also referred the decision of this Court in Judgment and order dated 05.09.2022 in WP(C)No.253 of 2021 passed by the learned Single Judge wherein similar relief i.e. the cash payment of the left out candidates from the original date mentioning in the original R.O.P.

[7] The learned senior counsel draws the attention of this Court with para 5 of the counter affidavit filed by the State respondent Nos. 1 & 3 that the impugned order dated 14.02.2019 is issued in pursuance to the cabinet decision with concurrence of the Finance Department(PIC) and clarifies that none of the pleadings of the petitioners has been controverted.

[8] Mr. Y. Nirmolchand, learned senior counsel for the petitioners referred to a judgment and order dated 19.05.2009 passed by the Hon'ble

Single Judge in WP(C)No.709 of 2005 passed by the then Gauhati High Court( Now, High Court of Manipur) regarding the same matter and directed that the date of pay of revised pay scale for the left out candidates should be from the date of mentioning in the original R.O.P. Reference may be made as follows;

*“12. For the foregoing reason, this Court has no alternative but to interfere with the effective date of revision of pay scale of the petitioners under ROP 1999 w.e.f. 01.06.2004 for the purpose of cash payment under the impugned order dated 22.06.2004. Accordingly, the effective date of the revision of pay scale of the petitioners under ROP 1999 mentioned in the impugned order 22.06.2004 is hereby set aside. The effective date of the revision of pay scale of the petitioners as Executive officers will be the same, i.e. w.e.f. 01.01.1996 as applicable to all the other employees of the different Municipal Councils and also the employees of the Government of Manipur”.*

[9] Accordingly, the State Government preferred a writ appeal against the order dated 19.05.2009 and the Division Bench of Gauhati High Court Imphal Bench upheld the finding of the learned Single Judge vide order dated 11.08.2010 in WA No.27 of 2010.

[10] At the Bar, Mr. Y. Nirmolchand, learned senior counsel for the petitioners submitted a special SLP preferred by the State Government

against the order of the Division Bench was also dismissed. Though the SLP was dismissed but the detail number is not known. He further prayed that the effective date of payment of the cash payment for the petitioners be corrected in the impugned order dated 14.02.2019.

[11] Mrs. Ch. Sundari, learned GA for the State respondents submitted that the impugned order dated 14.02.2019 issued by the Administrative Department SCERT is as per the decision of the State cabinet decision and with concurrence of the Finance Department (PIC). It is submitted that the Administrative Department has no power to grant revised pay scale from the different date mentioned in the impugned notification. It is further submitted that the Finance Department is yet to file any counter affidavit.

[12] It is also further submitted that the Administrative Department submitted a proposal to the State Government for inclusion of the left out categories and any correction will be subject to the reviewing/rectification of the Government order with the approval by the Cabinet and the Finance Department(PIC).

[13] This Court has considered the submissions made by the learned counsel for the parties and perused the materials on record. It is seen that the R.O.P 2010 is notionally effective from 01.01.2006 with cash

payment from 01.04.2010 and this is applicable to all the employees under the Government of Manipur.

[14] In the schedule of the R.O.P 2010 at serial No.37 with respect to State Council of Educational Research & Training listed along with various posts with old pay scale and new pay scale. However, the post of Primary Teacher, Under-Graduate Teacher and Graduate Teacher are found missing from the relevant column of the SCERT and this lapse is not on the part of the petitioners herein. To rectify this lapse, the Director, SCERT proposed to the Administrative Department vide order dated 24.01.2018 for inclusion of the omitted category.

[15] On perusal of the letter dated 24.01.2018, the Director SCERT did not propose any cut of date and the matter is wholly for inclusion. However, the proposal of the Administrative Department has been approved by the State cabinet in its meeting held on 22.12.2018 with concurrence of the Finance Department(PIC).

[16] It is submitted that due to financial constraint the date of effect for these 3(three) particular post i.e. Primary Teacher, Under Graduate Teacher and Graduate Teacher of SCERT is made from 01.01.2019 and the petitioners are aggrieved by the date of effective.

[17] This Court is of the opinion that there is no justification giving a different date of enforcement of the cash payment to the petitioners. If the post of the petitioners are mentioned in the original R.O.P. 2010 issued vide notification dated 05.05.2010, they would have been entitled to get cash payment from 01.04.2010 as received by the other employees including the employees of the SCERT originally included in the R.O.P. This Court is constrained to hold that the case of the petitioners be covered by the original date i.e. for cash payment from 01.04.2010 as mentioned in R.O.P. dated 05.05.2010.

[18] Considering the principle of equality enshrined in article 14 of the Constitution of India, the State respondents are directed to make cash payment or arrear for the petitioner No.1 w.e.f 01.04. 2010 and petitioner Nos. 2 & 3 from 11.12.2014 [as both joined service on 11.12.2014]

[19] It is submitted that the date of impugned order dated 14.02.2019 was wrongly mentioned as 11.12.2014 in prayer and accordingly, the petitioners have filed misc. case being MC(WP(C))No.340 of 2022 seeking prayer to correct the same. Accordingly, this Court by an order dated 18.10.2022 passed in MC(WP(C))No.340 of 2022 permitted to petitioners to correct the wrong date of the impugned order as 14.02.2019 and accordingly necessary correction was made by the Registry.

[20] In the peculiar facts and circumstance of the case and in order to do complete justice, this Court directs to the respondents to give cash payment or arrear to the petitioner No.1 w.e.f. 01.04.2010 and with respect to petitioner Nos. 2 & 3 w.e.f. 11.12.2014 and the necessary rectification shall be made within 2(two) months from the date of receipt of a copy of this order.

[21] It is further clarified that the direction of payment is confined to the petitioners herein.

[22] With this observations, this writ petition is disposed of.

**JUDGE**

***FR/NFR***

*John kom*