

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 678 of 2021

1. **Mr. Khundrakpam Surjit Singh**, aged about 43 years, S/o Kh. Tomba Singh of Khangabok Mayai Leikai, Part-II, Thoubal District, Manipur and;
2. Mr. Nameirakpam Manichandra Singh, aged about 59 years, S/o Late N. Khomdon Singh of Kwakeithel Mayaikoibi Mamang Leikai, Imphal West District, Manipur.

...Petitioners

-Versus -

1. The State of Manipur represented by the Principal Secretary/ Commissioner/ Secretary (Higher & Technical Education), Government of Manipur, New Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001;
2. The Principal Secretary/ Commissioner/ Secretary (DP/ Cabinet), Government of Manipur, Old Secretariat Building, South Block, P.O. & P.S. Imphal, Imphal West District, Manipur-79501; and
3. The Controller, Technical Education, Takyelpat, P.O. & P.S. Lamphel, Imphal West District-795004.

.... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioners	::	Mr. Ng. Jotindra Luwang, Advocate
For the respondents	::	Mr. Y. Ashang, Govt. Advocate
Date of Hearing	::	10-11-2022
Date of Judgment & Order	::	10-01-2023

JUDGMENT & ORDER

[1] The present writ petition had been filed assailing the order dated 15-07-2021 issued by the Commissioner (Hr. & Tech. Edn.), Government

of Manipur rejecting the representation dated 08-08-2018 submitted by the petitioners requesting for counting or linking up the period of their ad-hoc services rendered by them prior to their regular appointment as qualifying service for the purpose of pensionary and other retiral benefits coupled with the prayer for directing the respondents to link up the period of their ad-hoc services rendered by the petitioners as qualifying service for the purpose of pensionary and other retirement benefits.

Heard Mr. Ng. Jotindra Luwang, learned counsel appearing for the petitioners and Mr. Ashang, learned Government Advocate appearing for the respondents.

[2] The facts of the present case in brief is that both the petitioners No. 1 and 2 were initially appointed as Workshop Attendants in the Government Polytechnic under the Education Department (Technical Section), Government of Manipur for a period of three months on 22-03-1999 and 07-05-1999 respectively. Thereafter, the period of their ad-hoc services were extended from time to time by the Government by issuing various orders and the petitioners rendered their services as Workshop Attendants on ad-hoc basis continuously and without any break till they were appointed as Workshop Attendants on regular basis on the recommendation of a DPC vide order dated 30-04-2008 issued by the Controller of Technical Education, Manipur. After their regular appointment, the Controller of Technical Education, Manipur issued two separate orders, both dated 18-08-2017 thereby allowing the petitioners to enjoy their due annual normal increment from the date of their initial appointment to the post of Workshop Attendants on ad-hoc basis.

[3] 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 appointment as Workshop Attendants in the Government Polytechnic under the Education Department (Technical Section), 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. 22-03-1999 and 07-05-1999 till the date of their appointment on regular basis w.e.f. 29-04-2008, they continued to render their services as Workshop Attendants 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 08-08-2018 to the concerned authorities of the State Government requesting for counting the period of ad-hoc services as qualifying service for the purpose of availing pensionary and other retiral benefits.

[4] When the authorities failed to consider and dispose of the representation submitted by the petitioners, the petitioners approached this court by filling WP(C) No. 742 of 2018 for redressing their grievances. The said writ petition was disposed of by an order dated 10-08-2018 by directing the respondents to consider the representation submitted by the petitioners and to dispose of the same by issuing a speaking order within a period of a month from the date of receipt of a copy of the said order. In purported compliance with the directions given by this court, the Commissioner (Hr. & Tech. Edn.), Government of Manipur issued the impugned order dated 15-07-2021 thereby rejecting the said representation submitted by the petitioners. The only reason given by the authorities in rejecting the claim of the petitioners is that the initial ad-hoc appointment of the petitioners were not recommended by a Selection Committee/DPC. Having been aggrieved, the petitioners approached this court again by filling the present writ petition

[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 judgment and order dated 30-01-2006 passed by the Gauhati High Court in WP(C) No. 1299 of 2005, order dated 09-08-2010 passed by the Gauhati High Court in W.A. No. 89 of 2009, order dated 11-02-2011 passed by the Hon'ble Apex Court in SLP (C) No. 2958 of 2011, judgment and order dated 27-05-2013 passed by this court in Review Petition No. 14 of 2013, order dated 04-12-1998 passed by the Gauhati High Court in Civil Rule No. 1221/1998, judgment and order dated 20-10-2011 passed by the Gauhati High Court in W.A. No. 3 of 2011, etc.

The learned counsel also draw the attention of this court to the order dated 21-08-2014 issued by the Department of Youth Affairs and Sports, orders dated 04-03-2009 and 19-11-2009 issued by the Forest and Environment Department and order dated 13-03-2018 issued by the Adult 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 for the purpose of pensionary and other retiral benefits only 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 3, the only stand taken by the respondents in rejecting the claims of the petitioners is that linking up of past ad-hoc service of Government employee is under the purview of the Department of Personnel (DP), Government of Manipur and the Department of

Personnel, Government of Manipur after examining the cases of the petitioners as per the relevant provisions of DP's Office Memorandum dated 05-07-2003 does not concur to the proposed linking up of past ad-hoc services of the two petitioners on the ground that the initial appointment of the petitioners were not recommended by a Selection Committee/DPC. On such basis, the authorities have issued the impugned order dated 05-07-2021 rejecting the representation of the petitioners.

[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 for the purpose of pensionary and other retiral benefits only, 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 quashing and setting aside the impugned order dated 15-07-2021 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur and by directing the respondents to re-consider the cases of the present petitioners for linking up the period of their past ad-hoc services from the date of their initial 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