

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 726 of 2019

Shri 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.

...Petitioner

-Versus -

1. The 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 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.
4. The Director of Education (S), Government of Manipur, Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur, Pin – 795004.

.... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioner	::	Mr. L. Raju, Advocate
For the respondents	::	Mr. A. Vashum, Govt. Advocate
Date of Hearing	::	11-10-2022
Date of Judgment & Order	::	10-01-2023

JUDGMENT & ORDER

[1] Heard Mr. L. Raju, learned counsel appearing for the petitioner and Mr. A. Vashum, learned Government Advocate appearing for the respondents.

[2] The present writ petition had been filed with the prayer for quashing the impugned order dated 30-06-2017 issued by the Principal Secretary, Education (S), Government of Manipur thereby rejecting the claim of the petitioner for payment of her pay and allowances for the period from 01-04-2001 till 29-12-2016 coupled with the prayer for directing the respondents to release the petitioner's pay and allowances for the period from 01-04-2001 till 29-12-2016 within a stipulated period.

[3] The brief facts of the present case is that the petitioner was initially appointed as Craft Instructor (Pottery) in the Directorate of Education (S), Government of Manipur on ad-hoc basis for a period of six months by an order dated 01-07-1998 issued by the Director of Education (S), Government of Manipur. The period of ad-hoc service of the petitioner was extended from time to time till 31-03-2001 by issuing various orders with the approval of the Government. It is to be pointed out here that the extension of the period of ad-hoc service of the petitioner was done ex-post facto, for example, the ad-hoc service of the petitioner for the period from 01-04-1999 to 30-09-1999 was extended by issuing an order only on 06-12-2005 by the Commissioner of Education(S), Government of Manipur. So also the ad-hoc service of the petitioner for the period from 01-10-1999 to 31-03-2000, 01-04-2000 to 30-09-2000 and 01-10-2000 to 31-03-2001 was extended ex-post facto by issuing orders dated 04-08-2006, 20-10-2006 and 10-01-2007 respectively by the Commissioner of Education (S), Government of Manipur.

[4] When the ad-hoc service of the petitioner was not extended after 31-03-2001 and as the service of the petitioner was utilized by the Government, the Zonal Education Officer, Zone-II wrote a letter dated

22-09-2008 to the Director of Education (S), Government of Manipur requesting the latter for extending the ad-hoc service of the petitioner w.e.f. 01-04-2001 to 31-12-2008 and for payment of her back-wages/salary. When the Government failed to extend the ad-hoc service of the petitioner and to release her back-wages/salary, the Zonal Education Officer, Zone-II again wrote a letter dated 09-07-2010 addressed to the Director of Education (S), Government of Manipur with the request for extension of the ad-hoc service of the petitioner w.e.f. 01-04-2001 till the date of the said letter.

[5] On 14-02-2011, the Additional Director of Education (S/V) wrote a letter to the Commissioner of Education (S), Government of Manipur, requesting for extension of the ad-hoc service of the petitioner w.e.f. 01-04-2001 till the date of the said letter. In response to the said letter dated 14-02-2011, the Deputy Secretary, Education (S), Government of Manipur wrote a letter dated 24-03-2011 requesting the Additional Director of Education (S/V) to submit certain information in connection with the proposal for extension of the ad-hoc service of the petitioner. In response to this letter, the Additional Director of Education (S/V) wrote a letter dated 21-04-2011 to the Deputy Secretary, Education (S) stating, inter alia, that there are only ten ad-hoc employees, including the present petitioner, whose ad-hoc service have not been extended and that the period of their ad-hoc service to be extended varies as per their last date of extension. In the said letter, the Additional Director of Education (S/V) also made a request for extension of the term of ad-hoc service of the said ten persons, including the petitioner, for the period as indicated against their names as shown in the Annexure enclosed in the said letter.

[6] The Deputy Secretary, Education (S) again wrote a letter dated 13-05-2011 requesting the Additional Director of Education (S/V) to verify the genuineness of the appointment orders of the said ten ad-hoc employees including the present petitioner. In response, 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 ten non-teaching ad-hoc employees, including the petitioner, after due verification of the genuineness of their appointment orders along with relevant documents for extension of the period of their ad-hoc service. In the said list of ten non-teaching ad-hoc employees, the name of the petitioner appears at Sl. No. 1. Acting on the proposal made by the Additional Director of Education (S/V) in his letter dated 07-06-2011, the Principal Secretary of Education (S), Government of Manipur, issued an order dated 08-11-2012 thereby extending the period of ad-hoc service of ten non-teaching ad-hoc employees ex-post facto w.e.f. the dates indicated against their names. To the shock and surprise of the petitioner, her name was not included in the said extension order whereas the name of the nine other ad-hoc employees were included. In place of the petitioner, one Laboratory Assistant whose name was not included in the earlier proposal submitted by the Additional Director of Education (S/V) was included and the name of the petitioner was excluded without assigning any reason. Having been aggrieved, the petitioner approached this court by filing a writ petition being WP(C) No. 997 of 2014 for redressing her grievances. The said writ petition was disposed of on 17-06-2015 by directing the authorities to verify as to whether the petitioner rendered her service during the period claimed by her and if it was found that the petitioner rendered her service during the period

claimed by her, her entitlement should be calculated and to pay her pay and allowances. It was also made clear that the whole exercise should be completed within a period of six months from the date of receipt of a copy of the said order.

[7] Pursuant to the directions given by this court, the Secretariat, Education Department requested the Director of Education (S) to submit a detail report as to whether the petitioner 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 petitioner had actually worked/ rendered her service for the period from 01-04-2001 to 31-03-2011 and to submit a comprehensive report along with relevant documents by writing a letter dated 14-09-2015. In response to the letter of the Director of Education (S), the Zonal Education Officer, Zone-II submitted a report on 01-10-2015 to the effect that the petitioner has been rendering service in his office without any break till date and also furnished relevant documents and Duty certificate in support of the said report.

Despite the submission of verification report by the concerned Zonal Education Officer to the effect that the petitioner had been rendering her service in his office till date, the authorities did not extend the period of ad-hoc service of the petitioner or pay any of her back-wages, accordingly, the petitioner approached this court again by filing Contempt Case (C) No. 38 of 2016.

[8] In the present petition, the petitioner also enclosed a Notification dated 28-12-2016 issued by the Director of Education (S) notifying to the

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 were directed to personally appear before the said Special DPC. In the said list of 502 ad-hoc employees, the name of the petitioner appears at Sl. No. 502 thereby indicating that the authorities acknowledge that the petitioner was rendering service on ad-hoc basis. The petitioner also enclosed a Duty Certificate dated 29-12-2016 issued by the Zonal Education Officer, Zone-II, Government of Manipur to the effect that the petitioner has been rendering her service in the office till date.

[9] Despite the verification report submitted by the concerned authorities of the Directorate of Education (S) and the official records furnished in support of the fact that the petitioner has been rendering her service without any break and the Government utilised her service without giving her any salary or wages, the Principal Secretary, Education (S), Government of Manipur issued the impugned order dated 30-06-2017 thereby rejecting the claim of the petitioner for extension of her ad-hoc service and payment of her arrear salaries. On the basis of the said impugned order, the contempt case filed by the petitioner had also been closed. Having been aggrieved, the petitioner approached this court again by filing the present writ petition for redressing her grievances.

[10] Mr. L. Raju, leaned counsel appearing for the petitioner submitted that the authority issued the impugned order only on the ground that the petitioner has no right to continue her ad-hoc service beyond the term of her ad-hoc appointment/ extension of her ad-hoc service and that if any

person continue his/ her ad-hoc service without proper extension of his/ her ad-hoc appointment, it shall be treated as un-authorized service and trespasser without authority and on such basis it was held that the petitioner was not entitled to any pay and allowances w.e.f. 01-04-2001. The learned counsel further submitted that the stand taken by the authorities in issuing the impugned order is not sustainable in view of the fact that this court directed the authorities in the earlier round of litigation to examine and verify as to whether the petitioner actually rendered her service as claimed by her and if upon such verification, it is found that the petitioner actually rendered her service, her entitled pay and allowances should be calculated and paid to her within a stipulated period. It has also been contended that in compliance with the directions of this court, the authorities have initiated a detailed process for examination and verification to find out as to whether the petitioner actually rendered her service as claimed by her and that during the process of verification, it has been found out that the petitioner actually rendered her service and the Government utilized her service without paying her any salary and allowances and a report has been submitted in this regard along with supporting documents. The learned counsel vehemently submitted that in view of such uncontroverted findings, the stand taken by the authorities are not sustainable and hence, deserves to be interfered with by quashing and setting aside the impugned order dated 30-06-2017.

[11] The learned counsel also argued that in case of other persons similarly situated as the petitioner and who were serving on ad-hoc basis in the Directorate of Education (S), this court had granted relief to them by passing necessary orders dated 30-03-2015 in WP(C) No. 1016 of

2014, order dated 31-10-2017 in Contempt Case (C) No. 187 of 2015, judgment and order dated 20-01-2022 in WP(C) No. 560 of 2019 by quashing similar orders impugned in the present writ petition and by directing the authorities to release the entitled pay and allowances / back-wages of those persons. It has also been submitted by the learned counsel that the orders passed by the learned Single Judge have also up-held by the Division Bench in the writ appeal filed by the State Government and also not interfered with by the Apex Court of the land and that the judgment and orders passed by this court have also been complied with by the State Government by issuing necessary orders extending the period of ad-hoc service of those ad-hoc employees and by paying their due back-wages. The learned counsel submitted that the issue raised in the present writ petition is squarely covered by the aforesaid judgment and orders and the petitioner is also entitled to get similar benefits.

[12] In the affidavit-in-opposition filed by the respondents No. 1 and 4, it has been stated that the Additional Director of Education (S/V) wrote a letter dated 14-10-2019 requesting the Zonal Education Officer, Zone-II to re-examine/ verify the verification report and Duty Certificate submitted by their office and to submit a concrete / detailed report as to whether the petitioner has actually been rendering her service w.e.f. 01-04-2001 to 29-12-2016 by examining all the relevant service records such as attendance register, work allocation, duty certificate, etc. on or before 19-10-2019. In response to the said aforesaid letter, the Zonal Education Officer, Zone-II wrote letters dated 19-10-2019 and 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 the petitioner but work allocation of the petitioner during the period between 01-04-2001 upto 01-12-2009 was not available on record of their office and that her assignment of work was found allotted only in the year 2009 and 2011 to assist the work of S. Ibomcha Singh, Accountant in the Account Section of the said Zonal Education Officer office and that her performance of duty attendance was mentioned as not satisfactory and poor as well as irregular in the statement given by the said S. Ibomcha Singh. In the said affidavit-in-opposition, it has also been stated that the attendance register of the petitioner has already been examined by the on the spot enquiry team of the Directorate of Education (S) in connection with the Contempt Case (C) No. 38 of 2016 filed by the present petitioner and report along with the relevant documents has already been submitted along with the letter dated 02-08-2016 of the Director of Education (S) to the effect that some irregularities are found in her attendance.

[13] I have heard the submissions advanced by the learned counsel appearing for the parties and also carefully examined the materials available on record. On careful examination of the record of the present case, it is found that the period of ad-hoc service of the petitioner as Craft Instructor (Pottery) was lastly extended upto 31-03-2021 by an order dated 10-01-2007. It is also on record that many of the extension of the period of ad-hoc service of the petitioner was by way of ex-post facto. Even though there was no formal order of extension after 31-03-2001, it is the claim of the petitioner that she continue to render her service as Craft Instructor (Pottery) in the Office of the Zonal Education Officer, Zone-II continuously without any break atleast till 29-12-2016 and that her

service was utilized by the Government during the said period without any pay and allowances.

[14] The writ petitioner already approached this court earlier by filing WP(C) No. 997 of 2014 and the said writ petition was disposed of by order dated 17-06-2015 directing the authorities to verify as to whether the petitioner actually render her service as claimed by her and if, on such verification, it is found that she actually rendered her service, the State Government was directed to release her pay and allowances. Pursuant thereto, the Director of Education (S) under his letter dated 14-09-2015 requested the Zonal Education Officer, Zone-II to examine and verify as to whether the petitioner had actually worked /rendered her service in the Office of the Zonal Education Officer, Zone-II for the period w.e.f. 01-04-2001 to 31-03-2011 and to submit a comprehensive report along with relevant documents. In response to the said letter of the Director of Education (S), the Zonal Education Officer, Zone-II submitted a report dated 01-10-2015 along with supporting documents to the effect that the petitioner has been rendering her service in the Office of the Zonal Education Officer, Zone-II without any break till the date of the said report.

[15] On careful examination of the record, this court also found that the period of ad-hoc service of one A. Kiranmala Devi, who was serving as Craft Instructor on ad-hoc service along with the present petitioner in the same office of the Zonal Education Officer, Zone-II to assist S. Ibomcha Singh, Accountant has been extended for the period from 01-09-2010 to 30-03-2015 ex-post facto along with other 70 ad-hoc employees of the Education (S) Department by issuing an order dated 26-02-2019.

It is also on record that as per instruction of the Government, the Additional Director of Education (S/V), Government of Manipur submitted proposals under letters dated 21-04-2011 and 07-06-2011 for extension of the ad-hoc service of 10 (ten) non-teaching ad-hoc employees, including the present petitioner after due verification of the genuineness of their appointments and relevant documents. Acting on the said proposals submitted by the Additional Director of Education (S/V), the Government issued an order dated 08-11-2012 extending the ad-hoc service of ten ad-hoc employees ex-post facto for the period indicated against their names w.e.f. their last extension. In the said order, 9 (nine) persons, whose names were included in the proposals submitted by the Additional Director of Education (S/V), were included, however, quite surprisingly, the petitioner alone was left out without assigning any reason. The respondents have not given any reason in their counter affidavit about the exclusion of the name of the petitioner at the time of issuing the said order dated 08-11-2012 despite the proposals made by the Additional Director of Education (S/V).

[16] The Principal Secretary, Education (S), Government of Manipur, was of the view that an ad-hoc employee has no right to continue in service beyond the term of ad-hoc appointment/ extension and that his/her continuance in ad-hoc service without any proper extension of his/ her ad-hoc service should be treated as un-authorized service. On this basis, the Government was pleased to order that as the service of the petitioner was not extended beyond 31-03-2001, she has no right to continue in her service without authority and that there was no proper satisfactory

report for attending office and accordingly, it was held that she was not entitled to the pay and allowances w.e.f. 01-04-2001.

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.

JUDGE

FR/NFR

Devananda