

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

WP(C) No.618 of 2023

S.Ranjit Singh

... Petitioner

-Versus-

Manipur Dev Society & 2 Ors

... Respondents

**BEFORE
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA**
06.12.2023

Heard Mr.Ch.Ngongo, learned senior counsel assisted by Ms.Ch.Reena, learned counsel for the petitioner. Mr.Albert Keisham, learned counsel for respondent No.1 and 2 and Mr.Phungyo Zinkhai, learned Dy Government Advocate for respondent No.3.

[2] Mr.Ch.Ngongo, learned senior counsel submits that the petitioner, retired on 31.01.2023 on attaining the age of superannuation and he was working as Administrative Officer in the Manipur Development Society (respondent No.1). It is stated that the petitioner was one of the accused in a case investigated by the CBI being case No.RC-TST-2019-011 dt 20.11.2019 against the official of the MDS including the then Chief Minister and other officials. Vide order dated 27.01.2023 the petitioner was put under suspension and vide order dated 19.01.2023 passed by this Court in WP(C) No.11 of 2023 the suspension of the petitioner was quashed and directed to reinstate the petitioner back in service forthwith in terms of Rule 10(6) and (7) of the CCS (CCA) Rules, 1965. Thereafter the petitioner was reinstated in service and his pension was not released by the respondent No.1. The petitioner submitted

representations dated 5.7.2023 31.07.2023 for releasing his retirement benefits. Since, no action is taken upon the representations, the petitioner approached this court by way of the present writ petition inter alia, praying for a direction to the respondents to release the retirement benefit including the pensionary, EPF and other benefits.

[3] This Court issued Notice on 5.9.2023. However, the respondents have not filed counter affidavit and the instant matter is heard on merit.

[4] During course of hearing, Mr.Albert Keisham, learned counsel for respondent Nos.1 and 2 submits that no counter is required and respondent Nos.1 and 2 are in the process of preparation necessary documents for releasing provisional pension under Rule 69 of the CCS (Pension) Rules, 1972. Learned counsel for respondent Nos.1 and 2 further draws attention of this Court to the provisions of clause (c) of the Rule 69 of the CCS (Pension) Rules stating that no gratuity will be paid to the petitioner until conclusion of the departmental or judicial proceedings pending against him. It is stated that the relevant Service Record of the petitioner is in the custody of the CBI and the respondent Nos.1 and 2 are facing problem due to insufficient document.

[5] Mr.Ch.Ngongo, learned senior counsel undertakes that he will furnish necessary documents.

[6] Mr.Albert Keisham, learned counsel for the respondent relies on a judgment of the Kerala High Court in the case of **State of Kerala & Ors Vs Sugunan V: 2019 Legal Eagle (KER) 603: 2019 (2) KerLJ 302** wherein it is held that the entire retiral benefit cannot be granted to the retired government servant during

pendency of the criminal case in Vigilance Court. Treating parity with the present case, the respondents proposed to grant only provisional pension without gratuity as provided in Rule 69 (c) of the CCS (Pension) Rules.

[7] Mr.Ch.Ngongo, learned counsel for the petitioner has pointed out that no criminal case is pending against the petitioner before any Court. It is only an FIR under investigation of the CBI. Hence, clause (3) of Rule 69 of the CCS (Pension) Rules will not be applicable.

[8] Mr.Phungyo Zinkhai, learned Government Advocate submits that the issue is between the petitioner and the respondent Nos.1 and 2, the State respondent has no role and this Court may pass appropriate order.

[9] This Court considered the materials on record and submissions made by the parties at the Bar. It will be proper to consider the provisions of Section 69 of the CCS (Pension) Rules, 1972 and the same is reproduced herein below.

“69. Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

(b) the provisional pension shall be authorized by the Accounts Officer during the period

commencing from the date of retirement up to and including the date on which after the conclusion of departmental or judicial proceedings, final orders are passed by the Competent Authority.

© No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.”

[10] On plain reading of Rule 69, it is clear that during pendency of the departmental or judicial proceeding it is permitted to grant provisional pension to the retired government employee. Admittedly, the departmental proceeding has been quashed by the order of this Court and charge sheet/final report under Section 173 of the CrPC has not been filed by the CBI.

[11] It is settled proposition of law that a criminal proceeding is initiated upon taking cognizance by a competent Court on filing of the final report/charge sheet by the investigation. In the present case, the matter is still under investigation and final report/charge sheet as contemplated under Section 173 Cr.P.C is yet to be filed. Hence, no judicial proceeding is pending against the petitioner before any competent criminal court. Admittedly, a criminal investigation is pending against the petitioner and this Court is of the view that provisions of Section (c) of Rule 69 of the CCS (Pension) Rules will not be applicable in the facts and circumstances of the present case.

[12] Accordingly, the writ petition is allowed. Respondent Nos.1 and 2 are directed to release the pensionary benefit including gratuity of the petitioner upon submission of requisite paper, if any, within two months from the date of submission of additional documents, if any, by the petitioner. It is also clarified that the

respondent Nos.1 and 2 may request the CBI for providing necessary documents with respect to the preparation of Pension Payment Authority and other benefits for the petitioner. On such request, the CBI is also directed to prepare the same within a period of one month. If additional documents are not required, the preparation shall be completed within two months from the date of receipt of this order.

[13] With these observations, the writ petition is disposed of. No cost.

Furnish a copy of this order to learned counsel appearing for the parties.

JUDGE

Priyojit

RAJKUMAR
R PRIYOJIT
SINGH

Digitally signed
by RAJKUMAR
PRIYOJIT SINGH
Date: 2023.12.08
16:12:02 +05'30'