

IN THE HIGH COURT OF MANIPUR
AT IMPHAL
CONT.CAS(C) No.127 of 2022

Th. Hemanta Singh

...Petitioner/s

- Versus -

S.S Chhabra and 3 Ors.

...Respondent/s

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. MV MURALIDARAN
ORDER

27.02.2023

[1] Heard Mr. Ch. Robinchandra, learned counsel for the petitioner, Mr. S. Suresh, learned counsel for the respondent No.3 and Mr. L. Raju, learned counsel for the respondents No.1, 2 and 4.

[2] Since the contempt petition has been filed seeking the prayer for violation of the order passed by this Court in WP(C) No.128 of 2019 dated 18.05.2022. In pursuant to the order of this Court, Mr. L. Raju, learned counsel for the respondent No.1, 2 & 4 has submitted an order copy dated 01.12.2022 which reads as follows:

GOVERNMENT OF MANIPUR
DIRECTORATE OF YOUTH AFFAIRS & SPORTS
KHUMAN LAMPAK: IMPHAL
ORDERS

Imphal, the 1st December, 2022

No. 2/7/2002-YAS: Whereas, Shri Maisanam Sarat Singh, Contempt Case (C) No, 125 of 2022 was filed for non-compliance of the Hon'ble High Court 's Order dated 19/05/2022 passed in W.P. (C) No. 128 of

2019, wherein, the Hon'ble High Court Passed the following:

“Accordingly, this writ petition, on consensus, is disposed of by directing the petitioner to make a detailed representation before the respondent Nos. 2 & 3 for redressal of his grievances raised in the present writ petition as well as by taking additional grounds. Thereafter, on receipt of the representation made by the petitioner, the respondent Nos. 2 & 3 shall consider the representation and pass is speaking order in accordance to the representation. Liberty is also given to the petitioner to approach this Court if further aggrieved by any orders passed by the respondents,”

Whereas, the petitioner submitted his representation on 31/05/2022 for refunding the amount of Rs. 1,72,064/- deducted from his gratuity account.

Whereas, from perusal of the records it is found that, the deduction Rs. 1,72,064/- from the gratuity amount of the petitioner was made by the office of the Account General (A & G), Manipur in connection with wrong fixation of pay in ROPs after the retirement of the petitioner.

Whereas, the APEX Court in the case of Syed Abdul Qudir and others-Vs-State of Bihar and others reported in (2009) 3 SCC 475, having considered various conflicting decisions passed by the Apex Court in this regard, have finally settled the issue by laying down the following;

(a) If excess amount was not paid on account of any misrepresentation or fraud on the part of the employee, excess payment is not recoverable.

(b) If such excess payment was made by the employer by applying wrong principle for calculating the pay and allowances or on the basis of a particular interpretation of rules or order which subsequently found erroneous, excess payment is not recoverable.

Whereas, the Apex Court in another case reported in (2015) 4 SCC 334 passed the following decisions:

“Para 18. It is not possible to postulate all situations of hardship which would govern employees on the Issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement, BE that as it may, based on the decisions referred to hereinabove, we may, as a ready referred, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law”

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior

post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover. (Operative part of the Supreme Court's decision enclosed).

Therefore, in view of the above settled legal position, the representation dated 31/05/2022 filed by Shri Maisanam Sarat-Singh, Retd. Judo Coach has been thoroughly considered and decided to refund the amount of Rs. 1,72,064/deducted from his gratuity account. This is issued in compliance of the Hon'ble High Court's order dated 18/05/2022 passed W.P.(C) No. 128 of 2019.

*Sd/-
(T. Phulen Meitéi)
Director,
Youth Affairs & Sports,
Manipur.*

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[3] As per the above order, it is made clear that the respondents are complied with the orders.

[4] The learned counsel for the petitioner also admitted the same.

[5] Therefore, the present contempt petition is closed.

ACTING CHIEF JUSTICE

Ab. Surjit

