

IN THE HIGH COURT OF MANIPUR : AT IMPHAL

W.P.(C) No. 824 of 2021

Dr. K. Binod Mangang, aged about 44 years, S/o (L) Khundrakpam Kumar, a resident of Khorileikai Nambol, P.O. & P.S. Nambol, District - Bishnupur, Manipur-795134.

... Petitioner

-Versus-

1. The Manipur University (MU), represented by its Registrar, Manipur University, Canchipur, P.O-Manipur University & P.S.- Singjamei, Imphal West, Manipur – 795003.
2. The Vice Chancellor, Manipur University, Canchipur, P.O-Manipur University & P.S.- Singjamei, Imphal West, Manipur – 795003.

... Respondents

3. University Grants Commission represented by its Secretary, Bahadur Shah Zafar Marg, New Delhi – 110002.

... Proforma Respondent

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:: Mr. L. Anand, Advocate
For the respondents	:: Mr. BP Sahu, Senior Advocate assisted by Mr. Anjan Prasad Sahu, Advocate
Date of Hearing	:: 20-12-2022
Date of Judgment & Order	:: <u>10-01-2023</u>

JUDGMENT & ORDER

Heard Mr. L. Anand, learned counsel appearing for the petitioner and Mr. BP Sahu, learned senior counsel assisted by Mr. Anjan Prasad Sahu, learned counsel appearing for the respondents.

2] The present writ petition has been filed with a prayer for quashing and setting aside the impugned order dated **21-12-2021** issued by the Joint Registrar, Manipur University, rejecting the representation submitted by the petitioner for changing the date of his promotion to the Assistant Professor (Stage-3) as 17-01-2016 instead of 17-01-2020 and also for directing the respondents to review the order dated 11-05-2021 issued by the Registrar of Manipur University in respect of the promotion of the petitioner to Assistant Professor (Stage-3) w.e.f. 17-01-2016 instead of 17-01-2020.

[3] The facts of the present case in brief is that the petitioner, who is a Ph.D. Degree holder in Mathematics, was initially appointed as a Lecturer (now Assistant Professor) against the posts of Lecturer in the Department of Mathematics and Computer Science, Mizoram University, w.e.f. 17-01-2007 by an order dated 12-02-2007 issued by the Registrar of Mizoram University. After rendering service for a period of 4 years as Assistant Professor (Stage1) and on being found eligible, the petitioner was promoted to Assistant Professor (Stage 2) by the Mizoram University w.e.f. 17-01-2011 vide order dated 31-05-2011 issued by the Registrar, Mizoram University. After serving for a period of 8 years in the Mizoram University as an Assistant Professor, the petitioner joined the Manipur University as an Assistant Professor (Mathematics) w.e.f. 17-01-2015 vide order dated 28-01-2015 issued by the Registrar of Manipur University. Thereafter, by an order dated 16-02-2016 issued by the Registrar, Manipur University, the service of the petitioner as Assistant Professor, Department of Mathematics, was confirmed w.e.f. 17-01-2016.

[4] Under the University Grant Commission (UGC), Minimum Qualifications For Appointment Of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 (hereinafter referred to as

‘UGC Regulations, 2018’ for short), there is provision for Career Advancement Scheme (CAS) for college teachers. Under regulation 6.4 B I & II of the said UGC Regulations, it is provided inter alia that, an Assistant Professor (Academic Level 10 i.e. Stage 1) who have completed 4 years of service and having a Ph.D. Degree is eligible for promotion to Assistant Professor (Senior Scale (Stage 2) / Academic Level 11) and Assistant Professors who have completed 5 years of service in Academic Level 11 and Senior Scale (Stage 2) is eligible for promotion to Assistant Professor (Selection Grade/Stage 3/ Academic Level -12).

[5] Under the Regulation **6.3 VI(i)** of the said UGC Regulations, it is provided that if a candidate applies for promotion on completion of minimum eligibility period and is successful, the date of promotion shall be from the date of minimum period of eligibility.

[6] Again under the Regulation **10.0** of the said UGC Regulations, it is, inter alia, provided that previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organizations such as CSIR, ICAR, DRDO, UGC, ICSSR, ICMR, DBT etc. should count for the direct recruitment and promotion under the Career Advancement Scheme (CAS) of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature. The said provisions of Regulation **10.0** of the UGC Regulations are adopted in toto by the Manipur University by issuing an Ordinance D-5.

[7] The petitioner, after serving for a year as Assistant Professor in the Manipur University and after completing the minimum eligibility service period of 5 years submitted his first representation dated 16-01-2016 to the Registrar of Manipur University for his

promotion as Assistant Professor (Academic Level -12 / Stage-3) w.e.f. 17-01-2016 under the Career Advancement Scheme. When the authorities failed to consider his representation, the petitioner submitted several representations to the concerned authorities of the Manipur University for consideration of his promotion to Assistant Professor (Stage 3) by linking up the past service rendered by him at the Mizoram University.

[8] Acting on his representations, the authorities of the Manipur University considered the case of the petitioner. Subsequently, the Registrar of the Manipur University issued an order dated 25-02-2019 to the effect that linking up of past service rendered by the petitioner in Mizoram University had been approved on the condition that his promotion to next grade will be eligible after 17-01-2016 (i.e. from the date of confirmation), provided he fulfils the required criteria. Subsequently, the Joint Registrar of Manipur University issued an order dated 06-09-2019 approving to count the past service rendered by the petitioner as Assistant Professor in the Mizoram University as per Clause 10 of the UGC Regulations and promoting him as Assistant Professor (Level 2) from Assistant Professor (Level 1)w.e.f. 17-01-2015, the date on which he joined Manipur University. In the said order, it has also been mentioned that further placement from Level-2 to Level-3 will be determined as per UGC Regulations applicable as the specific period of time.

[9] Later on, the Registrar of Manipur University issued an order dated 11-05-2021 thereby giving promotion to 11 teachers including the petitioner under the Career Advancement Scheme of the UGCw.e.f. the dates shown against their names. In the said order, the effective date of promotion in respect of the petitioner to Assistant Professor (Stage 3) was given w.e.f. 17-01-2020. Having been aggrieved, the petitioner submitted a representation dated 12-05-2021

to the authorities of the Manipur University requesting for reviewing the said order by changing the effective date of promotion of the petitioner as 17-01-2016 instead of 17-01-2020. When the concerned authorities failed to consider the said representation, the petitioner approached this Court by filing a writ petition being WP(C) No. 500 of 2021 for redressing his grievance. The said writ petition was disposed of by this Court by passing an order dated 17-08-2021 directing the respondent Nos. 2 & 3 therein to consider the representation submitted by the petitioner within a period of 2(two) months by giving personal opportunity to the petitioner and to pass appropriate speaking orders by following the appropriate law. In purported compliance with the said direction given by this Court, the Joint Registrar, Manipur University issued an order dated 21-10-2021 thereby rejecting the representation submitted by the petitioner. Having been aggrieved, the petitioner approached this Court again by filing the present writ petition.

[10] The learned counsel for the petitioner submitted that under the Regulation/Clause 10 of the UGC Regulations, it is clearly provided that previous regular service as Assistant Professor or Associate Professor or Professor in a University/College should be counted for the direct recruitment and promotion under the Career Advancement scheme of a teacher as Assistant Professor, Associate Professor or Professor and that under Regulation/Clause **6.3 VI (i)** of the UGC regulations, it is provided that if a candidate applied for promotion on completion of the minimum eligibility period is successful, the date of promotion shall be from the date of minimum period of eligibility. It has also been submitted by the learned counsel that the provision under Regulation / Clause No. 10 of the said UGC Regulations had been adopted in toto by the Manipur University by issuing an Ordinance D-5 and accordingly, the petitioner is entitled to have his previous regular service rendered in Mazoram University counted for the purpose of promotion as Assistant Professor (Stage 3)

under the Career Advancement Scheme. According to the petitioner, as the petitioner had already rendered 4 years regular service as Assistant Professor (Stage 2) in the Mizoram University and one year regular service as Assistant Professor (Stage 2) in the Manipur University, he has completed 5 years of regular service as Assistant Professor (Stage 2) on 17-01-2016 and accordingly he is entitled to be promoted as Assistant Professor (Stage 3) w.e.f. 17-01-2016 as provided under Clause 6.3 VI (i) of the UGC Regulation and not from 17-01-2020.

[11] Mr. BP Sahu, learned senior counsel appearing for the respondents submitted that the petitioner was initially appointed as Assistant Professor (Stage 1) in the Department of (Mathematics and Computer Science), Mizoram University w.e.f. 17-01-2007. The petitioner was promoted to Assistant Professor (Stage 2) on 17-01-2011 by the Mizoram University and thereafter the petitioner was appointed as Assistant Professor (Stage 1) in the Manipur University w.e.f. 17-01-2015 by way of direct recruitment in the Department of Mathematics. Subsequently, the petitioner's service was confirmed to the said post on 17-01-2016 and his past service rendered at Mizoram University was linked up by an order dated 25-02-2019 issued by the Registrar, Manipur University on the condition that his promotion to the next grade will be eligible after 17-01-2016 provided he fulfils required criteria. It has also been submitted by the learned senior counsel that since the petitioner was serving as Assistant Professor (Stage 2) at Mizoram University, the Executive Council of Manipur University promoted the petitioner under Career Advancement Scheme of the UGC w.e.f. 17-01-2015 and accordingly, both the benefit of linking up of service as well as the level stages were granted to the petitioner as per Rule. It has also been submitted that as the petitioner joined Manipur University on 17-01-2015 as Assistant Professor (Stage 2), his placement from Stage 2 to Stage 3 shall be determined as per the UGC Regulations which falls on 17-01-2020 i.e. after 5 years at Stage

2 Level. Hence, as per Rule, the petitioner was promoted to Assistant Professor (Stage 3) by counting 5 years of service from the date of granting Stage 2 in the Manipur University. It has also been submitted that the petitioner's request had been accommodated upto the maximum possible extent as permissible under Rules and there is no question of committing any irregularity or illegality by the authorities in issuing the impugned orders and accordingly, the present writ petition deserves to be dismissed as being devoid of merit.

[12] I have heard the rival submissions advanced by the learned counsel for the parties at length and also perused the materials available on record. It is an undisputed fact on record that the petitioner was promoted to Assistant Professor (Stage 2) w.e.f. 17-01-2011 while he was serving in the Mizoram University and after rendering 4 years regular service as Assistant Professor (Stage 2) in the Mizoram University, the petitioner was again appointed as Assistant Professor (Stage 1) in the Manipur University w.e.f. 17-01-2015 as a direct recruit. It is also an undisputed fact that the Manipur University issued an order dated 06-09-2019 promoting the petitioner as Assistant Professor (Stage 2) w.e.f. 17-01-2015, the date on which the petitioner joined Manipur University by counting the past service rendered by the petitioner in the Mizoram University as provided under Clause 10 of the UGC Regulations.

[13] Under Regulation/Clause 10 of the UGC Regulations and Ordinance D-5 issued by the Manipur University, there is provision for counting the previous regular service rendered by a teacher as Assistant Professor, Associate Professor or Professor in the Universities or Colleges for the purpose of direct recruitment and promotion under the Career Advancement Scheme as Assistant Professor, Associate Professor or Professor. Regulation/Clause 6.3 VI(i) of the UGC Regulations provide that if a candidate applies for

promotion on completion of minimum eligibility period and is successful the date of promotion shall be from that of minimum period of eligibility.

[14] In the present case, the Manipur University has given promotion to the petitioner as Assistant Professor (Stage 2) w.e.f. 17-01-2015, the date on which he joined Manipur University by counting the previous regular service rendered by the petitioner as Associate Professor in the Mizoram University as provided under Clause 6.3 VI(i) of the UGC Regulations. The only issue to be decided in the present case is whether the petitioner is entitled to have his 4 years previous regular service rendered by him as Assistant Professor (Stage 2) in Mizoram University counted for the purpose of promotion as Assistant Professor (Stage 3) in the Manipur University under the Career Advancement Scheme.

[15] The provisions of Regulation/ Clause 10 of the UGC Regulations as well as the Ordinance D-5 of the Manipur University has in no uncertain terms provide that previous regular service should be counted for the purpose of promotion under Career Advancement Scheme of a Teacher as Assistant Professor, Associate Professor or Professor. As there is no dispute with regard to the fact that the petitioner had already rendered 4 years regular service as Assistant Professor (Stage 2) in Mizoram University, this Court do not find any reason to hold that the petitioner is not entitled to count such past service for the purpose of his promotion to the next grade of Assistant Professor (Stage 3) under the Career Advancement Scheme, in view of the clear-cut provision under Regulation / Clause 10 of the UGC Regulations and the Ordinance D-5 issued by the Manipur University.

[16] In the present case, Manipur University had already promoted the petitioner to the Grade of Assistant Professor (Stage 2) w.e.f. 17-01-2015 and as the petitioner had completed 5 years regular service as Assistant Professor (Stage 2) on and from 17-01-2016 by

counting the 4 years regular service rendered by him as Assistant Professor (Stage 2) in Mizoram University along with one year regular service rendered by him as Assistant Professor (Stage 2) in Manipur University, this Court is of the considered view that the petitioner become eligible and entitled for promotion to the higher Grade of Assistant Professor (Stage 3) in the Manipur University w.e.f. 17-01-2016 since the petitioner was successful and had already been promoted to the grade of Assistant Professor (Stage 3). Accordingly, this Court has no hesitation to hold that the acts of the respondents in rejecting the legitimate claims made by the petitioner for his promotion to the grade of Assistant Professor (Stage 3) w.e.f. 17-01-2016 are arbitrary, illegal and in complete violation of the relevant provisions of the UGC Regulations and such actions are not sustainable in the eyes of law.

[17] In the result, the present writ petition is allowed by quashing and setting aside the impugned order dated 21-10-2021. The respondents are further directed to reconsider the claims of the petitioner for his promotion to the Grade of Assistant Professor (Stage 3) w.e.f. 17-01-2016 in terms of the relevant UGC Regulations and the observations and findings made herein above as expeditiously as possible, but not later than 2(two) months from today.

[18] With the aforesaid directions, the present writ petition is disposed of. There will be no order as to costs.

JUDGE

Dhakeshori

FR/NFR