

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

WP(C)No.684 of 2022

Smt. Yambem Kamala Devi aged about 55 years W/o K. Achouba Singh,
resident of Tangkham, PO Pangei Yangdong, PS Heingang, Imphal East
District, Manipur-794114.

...Petitioner

- Versus -

1. The State of Manipur represented by the Commissioner/Secretary Education (S), Govt. of Manipur, Secretariat Block, PO & PS Imphal, Imphal, Manipur-795001.
2. The Director of Education(S), Govt. of Manipur at Lamphel Pat, Imphal west, PS Lamphel.
3. The School Managing Committee(SMC) of Cosmopolitan High School, Chingkhru(Government Aided), through the Secretary SMC, Chingkhru, PO Pangei Yangdong, Imphal East, Manipur-795114.
4. Shri S. Mani Singh, aged about 60 yrs S/o.(L), S. Paka Singh, a resident of Naoremthong Khumanthem Leikai, Takyel Mapal, PO Langjing & PS Patsoi, Manipur-795113.
5. K. Tolendro Singh, Science Graduate Teacher EIN(054890), of Praja Hr. Sec. School, retired on 31.01.2022 S/o (L) Koijam Mangol Singh a resident of Lamshang Bazar, Near Bridge, PO & PS Lamshang, District Imphal West-795146.

6. S. Nabakumar Singh, Science Graduate Teacher EIN(059310) of Kasturba Girls' Jr. High School, retired on 31.05.2022 S/ (L) Sinam Dijen, a resident of Hillghat Sorok Atingbi, Jiribam, PO & PS Jiribam-795116.

7. E. Gouramohon Singh, Primary Teacher EIN(064075) of Hiyanglam Jr. High School, retired on 30.06.2022 S/o. Elangbam Tomchou Singh, a resident of Hiyanglam, PO Kakching, PS. Hiyanglam, District Kakching-795103.

8. Ringkahao Ringui, Principal, EIN(061200) of Jessami Hr. Sec. School (retired on 31.01.2022) Jessami Village PO & PS Jessami, Ukhrul District, Manipur-795142.

...Respondents

BEFORE
HON'BLE JUSTICE MR. JUSTICE A. GUNESHWAR SHARMA
ORDER
(ORAL)

19.12.2023

[1] Heard Mr. K. Achouba, learned counsel appearing for the petitioner, Mr. Abdul Baqee, learned counsel appearing for the respondent No.4 and Mr. H. Debendra, learned Deputy AG assisted Mr. Somendro Roy, learned counsel appearing for respondent Nos. 1 & 2.

[2] The respondent Nos. 3, 5,7 & 8 did not make appearance in spite of proper service and the respondent No.6 submitted representation dated 21.10.2023 stating that he has no objection in passing appropriate order by this Court.

[3] The respondent Nos. 1, 2 &4 filed counter affidavits.

[4] The case of the petitioner in brief is that she is the senior most teacher of Cosmopolitan High School, Chingkhui(Govt.Aided), Imphal East. On the retirement of respondent No.4 as Headmaster of Cosmopolitan High School, Chingkhui(Govt.Aided), Imphal East, the petitioner was made in-charge as headmistress vide order dated 28.03.2022 passed by the School Management Committee(Respondent No.3) and vide order dated 31.03.2022, the ZEO Zone-II, Government of Manipur acknowledged the same. Thereafter, vide order dated 22.04.2022 issued by Deputy Secretary(Education-S), Government of Manipur, the service of the private respondent No.4 to 8 were extended for period of 1 year/2(two) years as per the office memorandum dated 27.03.2015 issued by the Department of Personnel and Administrative Reforms, Government of Manipur. The Office memorandum dated 27.08.2015 empowers the Government for extension of service of national awardees and State awardees for 2(two) years and

1(one) years respectively in recognition of their services and for optimum utilization subject to their willingness and other eligibility conditions such as medical and other. Para (i) of the office Memorandum dated 27.03.2015 is reproduced herein.

“(i). The services of teachers conferred with National Award shall be extended for a maximum period of 2(two) years for National Awardees and 1(one) year for State Awardees respectively beyond the date of superannuation with the same status and powers enjoyed by them before the extension is allowed w.e.f 31.12.2012.

[5] Being aggrieved by the order dated 24.04.2022 issued by the Government of Manipur extending the service of the private respondents, the petitioner approached this Court by way of the present writ petition for quashing the same and the prayers are reproduced as

(i) Issue rule in nisi and call for record:

(ii) Issue a writ in the nature of certiorari or any other appropriate writ or direction for quashing and setting aside the impugned orders dated 22.04.2022(Annexure-A/3) under No. PS1-701/2/2021-EDN(S) extending service of S. Mani

Singh(Respondent No.4) pursuant to DP's O.M. dated 27.03.2015

(iii) Issue a writ in the nature of certiorari or any other appropriate writ or direction for quashing and setting aside the impugned order dated 30.04.2022(Annexure-A/5) Headmistress appointment and allowing Respondent No.4 to act as Headmaster in the school.

(iv) Issue an appropriate writ or direct the official respondents to consider for appointment of the petitioner as Headmistress in the Cosmopolitan High School.

[6] Mr. K. Achouba, learned counsel for the petitioner submit that the impugned order dated 22.04.2022 is issued in violation of the name of the private respondent as State and National Awardee of OMs dated 06.08.2016, 19.12.2018 and 07.11. 2019 have been cancelled and the names of the private respondents are mentioned in Annexure A1 at serial No.7,11,21 and 24 Annexure A3 serial No.8.

[7] It is submitted that since their names have been cancelled from list of awardee, the impugned order dated 22.04.2022 extending their service for period of 2/1 years is illegal, perverse and in violation of the Office Memorandum dated 21.02.2020. It is also submitted that after

retirement and upon extension by the impugned order, the respondent No.4 cannot be Headmaster of the Cosmopolitan High School, Chingkhui(Govt.Aided), Imphal East. The petitioner is mainly aggrieved by the extension of the service of the respondent No.4.

[8] Mr. K. Achouba, learned counsel appearing for the petitioner distinguishes the case of the respondent No.4 from that of other private respondents on the ground that the respondent No.4 and the petitioner are teachers in the Government Aided School while other private respondents are teacher in the Government School. He further states that in Government Aided School after retirement the incumbent cannot get any retirement benefits.

[9] It is the submission of Mr. K. Achouba, learned counsel for the petitioner that Office Memorandum dated 21.02.2020 cancelled the names of the private respondent and other mentioned in the memorandum issued starting from the year 2016 and afterwards, their names cannot be considered for service extension relying on the O.M of 2015.

[10] This Court is of the opinion that this submission seemed to be attractive but has no substance.

[11] Mr. H. Debendra, learned Deputy AG has raised the question of maintainability of the writ petition on ground that the petitioner has not challenged office Memorandum dated 27.03.2015 and the writ petition is not maintainable as the petitioner has not challenged the Office Memorandum dated 27.03.2015 which empowers the State for extension of service of the meritorious State and National awardee teachers for period of 1(one) and 2(two) years except for adding one line in the prayer.

[12] Mr. H. Debendra, learned Deputy AG submits on merits that the Office Memorandum dated 27.03.2015 issued by Department of Personnel(DP), Government of Manipur covered the teachers under the Education Department irrespective of whether he is in Government or Government Aided Schools. This O.M. dated 27.03.2015 does not distinguish between teacher working in Government Aided Schools and Government Schools and as such in Para (i) of the O.M. says that Awardee after extension shall have the same status and power prior to that retirement. He further clarifies that the O.M. dated 21.02.2020 only cancelled the name of the Awardees mentioned at Annexure(I) to (IV) and it does not debar the deleted awardees for consideration in future.

[13] It is submitted that it will be clarified by para No.2 of OM. Dated 21.02.2020 which stipulates that the Government may issue relevant office memorandum for engagement of the canceled candidates from time to time not earlier than 6(six) months from the different date of due retirement.

[14] Mr. Achouba, learned counsel for the petitioner submits that any office memorandum issued in this regard prior to year of 2016 cannot be considered for consideration of the extension of the services of the State Awardees and National Awardees. This submission has no substance. It will be clear from the Para 2 of the office memorandum dated 21.02.2020 that the State Government may consider the names of the cancelled candidates from time to time for extension by issuing relevant office memorandum but not earlier than 6(six) months from the date of retirement. It is further mentioned that there is no time period after the retirement.

[15] Mr. H. Debendra, learned Deputy AG submits that in the impugned order, the services of the respondent Nos. 4, 5 and 8 were extended after retirement and that of respondent Nos. 3 & 4 were extended prior to 2(two) months from the date of retirement.

[16] It is submitted that the O.M. dated 21.02.2020 issued in pursuance to the Office Memorandum dated 27.03.2015, the caption of the order such as office memorandum/notification/order does not affect the act of the extension.

[17] It is stated that office memorandum dated 27.03.2015 is a State policy and this has not been reversed or reviewed by the State till date.

[18] It is prayed that the writ petition may be dismissed on the ground of maintainability as well as on merit.

[19] Mr. Abdul Baqee, learned counsel appearing for the respondent No.4 has adopted the submissions of the learned Deputy AG and stated that there is no illegality and in the impugned order dated 22.04.2022 and the services of the respondent No.4 and other respondents services be extended in terms of the Memorandum dated 27.03.2015. It is submitted that the O.M. dated 27.03.2015 is not challenged in the present writ petition.

[20] This Court has perused the materials available on record and considered the submissions made at Bar. By Office Memorandum dated 27.03.2015, the State Government formulates a scheme where in order to

recognize the services of the meritorious State and National Awardee teachers and for optimum utilization of their services and proposed to extend 2(two) years services in case of National Awardees and 1(one) year in case of State Awardees from the date of their superannuation provided to their willingness and mental fitness working beyond the age of superannuation. Para (i) of the said O.M. stipulates that the teacher will have the same status and power enjoyed by them prior to extension and this is the general rule for extending the service of the National and State Awardees teacher working in Government Aided School and Government Schools under the Government of Manipur.

[21] In exercising the power conferred under O.M. 27.03.2015, the State used to issue office memorandum or order listing the names of the State Awardee for consideration for extension. Vide office memorandum dated 21.02.2020 various listed names of the State and National Awardees have been cancelled and the same O.M. empowers the State Government to issue relevant office memorandum for engagement of the cancelled/deleted names for consideration of their services extension in terms of the O.M dated 27.03.2015.

[22] The Office Memorandum dated 21.02.2020 does not prescribe any outer time limit for extension after retirement.

[23] The O.M. dated 21.02.2022 deleted the name of Awardees annexed with the different O.Ms as mentioned in the (I) to (IV) annexed to it. However, it does not say that deleted names are debarred from consideration in future or it does not review/recall the office memorandum dated 27.03.2015 which laid down a scheme for extension of the State and National Awardees.

[24] This Court, on perusal of the impugned order dated 27.04.2022, found that the services of the respondent Nos. 4, 5 & 8 have been extended after the date of their retirement and that of respondent 6 & 7 prior to 2(two) months from the date of their retirement.

[25] This Court is of the view that the extension of the private respondent Nos. 4 to 8 are in consonance with the O.M dated 27.03.2015 as well as para 2 of the O.M dated 21.02.2020 where the names of the private respondents and other have not deleted. Accordingly, this Court upholds the impugned order dated 22.04.2022. It is clarified that not mentioning office memorandum in order dated 22.04.2022 does not affect the legality of the order as the same is issued in compliance of the O.M.

dated 27.05.2023 extending the service of the National and State Awardees by 2(two) and 1(one) year respectively.

[26] Accordingly, this writ petition is dismissed. No Costs.

JUDGE

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