

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

WP(C) No. 721 of 2022

Md. Abdul Matalip Shah

.....*Petitioner/s*

- Versus -

State of Manipur & 3 Ors.

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

05.10.2023

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Ms. Nirmala, learned counsel for the petitioner, Mr. Shyam Sharma, learned G.A. for respondent Nos. 1, 2 & 3 and Mr. S. Suresh, learned counsel for respondent No. 4.

[2] The present writ petition has been filed by the petitioner for issuing direction to the State respondent to release the full salaries of the petitioner w.e.f. 01.09.2012 till 28.02.2017 and other retirement benefits with interest at the rate of 12% per annum.

[3] The prayers in this writ petition are reproduced below:

“(i) call for the records of the case and issue rule nisi calling upon the respondents to show cause as to why the prayer prayed for by the petitioner shall not be granted and after hearing them make the rule absolute.

- (ii) *issue a writ of mandamus by directing the respondents to release the full salaries of the petitioner w.e.f. 01.09.2012 till 28.02.2017 within a stipulated period.*
- (iii) *issue a writ of mandamus by directing the respondents to release the service pension and other retirement benefits of the petitioner with interest at the rate of 12% per annum within a stipulated period as have been done in respect of other similarly situated persons.*
- (iv) *pass any other appropriate writ/order/direction that this Hon'ble Court deems fit and proper. "*

[4] Mr. Kh. Tarunkumar, learned senior counsel, submits that the petitioner who was LDC in PWD was suspended on 04.10.2012 on the allegation of misconduct and his suspension order was revoked vide order dated 29.08.2018 passed by the Chief Engineer, PWD, Manipur in compliance of the order dated 08.02.2017 passed by this Court in WP(C) No. 221 of 2016 subject to the outcome of the criminal case as well as departmental proceeding against the petitioner. It is submitted that in spite of the direction of this Court, the salary of the petitioner for the period of suspension has not been released and also process for granting pensionary benefit has been withdrawn on the ground of criminal case pending against him.

[5] Mr. S. Suresh, learned counsel for respondent No. 4, submits that in absence of any necessary paper from the administrative department, the respondent No. 4 is not able to proceed further for processing the pensionary paper for the petitioner either regular

pension or provisional pension. He also pointed out that the petitioner is not entitled to get full pension in view of the pendency of criminal case against him.

[6] During the course of hearing, Mr. Kh. Tarunkumar, learned senior counsel, submits that, at the moment, he is not pressing for the full pension as per relief No. (iii) of the writ petition. It may be sufficed for the petitioner if provisional pension as mentioned in Rule 9(4) and Rule 69 of the Manipur Civil Service (Pension) Rules, 1977. With respect to prayer No. (ii) of the writ petition for releasing the salaries for the period from 01.09.2012 to 28.02.2017, learned senior counsel for the petitioner, submits that this prayer may be kept open and the writ petition may be disposed of by directing the respondents to release provisional pension to the petitioner.

[7] Ms. Shyam Sharma, learned G.A. for the State respondent, submits that all the relevant documents have been seized by the police in connection with the criminal case and if the petitioner submits the relevant paper to the administrative department, the process for provisional pension can be initiated.

[8] Mr. Kh. Tarunkumar, learned senior counsel, undertakes to submit the relevant pension paper by taking a certified copy from the criminal Court and the same may be permitted to be submitted within 3 (three) weeks' from the date of receipt of this order.

[9] Recording the submissions of the parties at bar, respondent Nos. 1 to 3 are directed to initiate the process for

provisional pension by forwarding the relevant provisional pension to the petitioner to the office of respondent No. 4 within a period of one month from the date of receipt of the relevant document from the petitioner. Respondent No. 4 is also directed to complete the process of preparing provisional pension within a period of 2 (two) months from the date of receiving of the relevant paper from the administrative department.

[10] It is made clear that the prayer No. (ii) regarding full salary for the period of suspension is kept open.

[11] With this observation, writ petition is disposed of.

JUDGE

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KH. JOSHUA
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