

IN THE HIGH COURT OF MANIPUR AT IMPHAL

WA No. 110 of 2022 With MC(W.A.) No. 177 of 2022

The Principal Accountant General, Office of the Principal Accountant General
(A&E), Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur- 795001.

....Appellant/ Respondent No. 6 in the writ petition

- Versus -

1. Shri Angom Mihir Singh, aged about 67 years S/o. Late Angom Iboton Singh, a resident of Singjamei Waikhom Leikai, P.O. and P.S. Singjamei, District-Imphal West, Manipur- 795008.

Smt. Nongmeikapam Brajamani Devi aged about 64 years W/o Late Angom Mihar Singh, aged about 67 years S/o Late Angom Iboton Singh of Singjamei Makha Waikhom Leikai, P.O. and P.S. Singjamei, District-Imphal West, Manipur, Pin No. 795008.

(.....impleaded as petitioner/Legal representative vide order dated 15-03-2022 passed in MC(W.P. (C)) No. 86 of 2022.

.....Respondent/Petitioner in the writ petition.

2. The State of Manipur, represented by the Chief Secretary (DP/Pension), Government of Manipur, Secretariat South Block, Babupara, P.O. and P.S. Imphal, Imphal West District, Manipur – 795001.
3. The Principal Secretary (Eco. & Stats.) Govt. of Manipur, Babupara, P.O. and P.S. Imphal, Imphal West District, Manipur-795001.
4. The Director of (Eco. & Stats.) Manipur and its office at Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur- 795004.

5. The Director, Treasuries & Accounts, Govt. of Manipur, Imphal and its Office at Imphal, Manipur- 795001.
6. The Principal Secretary/Commissioner (Finance), Govt. of Manipur and its office at Babupara, Manipur- 795001.

Respondent/Respondent No. 1, 2, 3, 4 & 7 in the writ petition.

B E F O R E

**HON'BLE THE ACTING CHIEF JUSTICE MR. MV MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner	:	Mr. S. Suresh, Advocate.
For the respondents	:	Mr. Ajoy Pebam, Advocate for respondent No. 1; and Mr. R.K. Umakanta, G.A. for the State respondents.
Date of Hearing	:	13.06.2023
Date of Judgment & Order	:	23.08.2023.

JUDGMENT AND ORDER (CAV)

A. Guneshwar Sharma, J.

[1] Appellant/respondent No. 6 in the writ petition i.e. Principal Accountant General (A & E), Manipur has filed the present appeal against the judgment and order dated 09.08.2022 passed by the learned Single Judge in W.P. (C) No. 757 of 2019. By the impugned order, the learned Single Judge directed the appellant/respondent No. 6 to take prompt action for releasing the pension and other retiral benefits due payable to Late Shri A. Mihir Singh, retired Assistant Director of Economics and Statistics Department, Government of Manipur in terms of the order dated 27.10.2018 of the Secretary (Eco. & Stats.), Government of Manipur. The petitioner approached

this Court by way of writ petition being W.P. (C) No. 757 of 2019. The brief facts of the case resulting in the filing of the writ petition before the learned Single Judge is as follows:-

(i) Respondent No. 1/writ petitioner was initially appointed as a Sub-Inspector in the Directorate of Economics and Statistics, Government of Manipur on regular basis on 25.11.1978. He was promoted to the post of Inspector on regular basis on 01.07.1996 in the pay scale of Rs. 1400-40-1800-EB-50-2300/-. While he was serving as an Inspector in the Department of Economics and Statistics, the State Government revised the pay scale of the Inspector from Rs. 1400-2300/- to 5000-8000/- w.e.f. 01.01.1996 by issuing the Manipur Services (Revised Pay) (1st Amendment) Rules, 1999 [hereinafter referred to as the 'ROP(1st Amendment) 1999']. The State Government gave him the higher pay scale of Rs. 7250/- w.e.f. 01.07.2005 on completion of 24th years of regular service in terms of the policy of the State Government under the Assured Career Progression Scheme for the employees of the Government of Manipur. On 11.10.2006, the petitioner was given regular promotion to the higher post of Assistant Director in the Directorate of Economics and Statistics, Government of Manipur in the pay scale of Rs. 5500-175-9000/- . Subsequently, the pay scale of the Inspector in the Directorate of Economics and Statistics, Government of Manipur was downgraded from the pay scale of Rs. 5000-8000/- to Rs. 4500-7000/- w.e.f. 01.01.2007 under the Manipur Services (Revised Pay) (2nd Amendment) Rules, 2006

[hereinafter referred to as 'ROP(2nd Amendment) 2006']. On 05.05.2010, the Manipur Government notified the Manipur Services (Revised Pay) Rules, 2010 (hereinafter referred to as the 'ROP 2010') thereby revising the pay scales of the State Government employees including the post of Inspector and Assistant Director in the Directorate of Economics and Statistics. The said ROP 2010 came into force notionally w.e.f. 01.01.2006 and cash payment to be given from 01.04.2010. In the said ROP 2010, the pay scale of the Inspector was revised from Rs. 4500-7000/- to Rs. 5200-20200/- and the pay scale of Assistant Director was revised from 5500-9000/- to 9300-34800/- with Grade Pay of Rs. 4300/-. The petitioner retired from service on attaining the age of superannuation on 28.02.2013 while serving as Assistant Director in the Directorate of Economics and Statistics and enjoying the pay scale of Rs. 17,610/- with Grade Pay of Rs. 4300/-.

(ii) After retirement of the respondent No. 1/writ petitioner, the Director of Economics and Statistics, Government of Manipur submitted the revised format of pension calculation sheet under Rule 61 of CCS (Pension) Rules, 1972 and as per calculation of the Department, the petitioner was entitled to receive Gratuity of Rs. 5,96,508/- and a pension of Rs. 10,955/- per month. However, the petitioner was given the revised Gratuity of Rs. 5,74,728/-, Commutation of Rs. 4,15,141/- and a pension of Rs. 10,555/- under P.P.O. No. 111301060 by the Accountant General, Manipur. Having been aggrieved by the acts of the Accountant General,

Manipur, the petitioner approached this Court by filing writ petition being W.P. (C) No. 193 of 2016 with a prayer for directing the respondents to allow the petitioner to enjoy the pension of Rs. 10,955/- Gratuity of Rs. 5,96,508/- and Commutation of Rs. 4,30,873/- along with some other reliefs. The said writ petition was disposed of by this Court on 11.05.2017 directing the authorities to verify the pay scale opted by the petitioner, whether it was the existing pay of scale (pre-revised) or it was the Revision of Pay, 2010 and after such determination, the authorities ought to calculate the necessary entitlements by taking into consideration all the relevant facts that the writ petitioner was promoted to the higher post of Assistant Director on 11.10.2006.

(iii) Thereafter, the State Government initially issued an order dated 21.12.2017 in purported compliance with the aforesaid order of this Court dated 11.05.2017 thereby wrongly calculating the pay scale enjoyed by the petitioner. However, the State Government issued an order dated 27.10.2018 in supersession of its earlier order dated 21.12.2017 thereby ordering that the correct amount of pension of the writ petitioner should be Rs. 10,955/- and advising the Director (Eco. & Stats.) to rectify and recast the Service Book of the petitioner in terms of the said order. The Deputy Accountant General (A&E) wrote a letter dated 17.05.2019 to the Deputy Secretary, Finance (PIC), Government of Manipur, stating that the fixation of pay of the writ petitioner done under the order dated 27.10.2018 was not in order and that the fixation of pay of the petitioner

under the earlier Government order dated 21.12.2017 was in order and a request was made to review the pay fixation order dated 27.10.2018 and to issue a speaking order. In response to the letter dated 17.05.2019 of the Accountant General (A&E), the Deputy Secretary, Finance (PIC), Government of Manipur, wrote a letter dated 28.11.2019 stating, inter alia, that the last pay drawn by the petitioner on the date of his retirement on attaining the age of superannuation on 28.02.2013 had been indicated by the Finance Department (PIC) as Rs. 21,910/- and pension would be Rs. 10,955/- on the ground that the petitioner was already granted ACP-II on completion of 24(twenty four) years service in the pay scale of Rs. 5,500-175-9000 w.e.f. 01.07.2005 and was also promoted to the post of Assistant Director in the pay scale of Rs. 5,500/--175-9000 on 11.10.2006 prior to issuance of the ROP (2nd Amendment), 2006. Therefore, question of issuing speaking order in that regard does not arise. Then, the Deputy Accountant General (A&E) wrote another letter dated 27.12.2019 to the Deputy Secretary, Finance (PIC), stating, inter alia, that as per the Explanation (3) of Rule 3 of the ROP 2010 read with clarification on point of doubt No. 16 of Finance Department (PIC) clarification Office Memorandum dated 07.07.2010, emoluments of the purpose of pay shall be determined with reference to pay to be regulated in the scale of pay specified in Column (4) against the post in Column (2) of Scheduled-I, Part-C, of ROP(2nd Amendment) 2006 and requested to clarify as to whether the pay of all the employees in the similarly situated cases covered by the downgraded scale under the ROP(2nd Amendment) 2006

but granted ACP or promoted to higher post, prior to enforcement of the said ROP(2nd Amendment) 2006 will be extended with the same treatment so as to avoid claims made by persons similarly situated with the petitioner. Subsequently, the Office of the Accountant General (A &E), Manipur wrote two reminder letters dated 05.03.2020 and 11.02.2021 ascertaining clarification from the Finance Department. On 04.03.2021, the Under Secretary, Finance (PIC) wrote a letter to the Senior Deputy Accountant General (A&E) stating that the pay regulation of the petitioner and one Shri M. Nabakishore Singh, who are both retired Assistant Director of Economics and Statistics cannot be treated as a similar case and that the above two retired Assistant Director are not covered by downgraded scale under the ROP as they were promoted to the higher post of Assistant Director prior to the enforcement of the ROP(2nd Amendment) 2006. Accordingly, Senior Deputy Accountant General (A&E) wrote another letter dated 27.08.2021 to the Chief Secretary (Finance/PIC), Government of Manipur stating that the Administrative Department of Economics and Statistics continues the payment under the ROP 1999 to the said two officers resulting in over-payment of pay and allowances w.e.f. 01.01.2006 and requesting to look into the matter afresh and to review the orders dated 27.10.2018, 28.11.2019 and 04.03.2021 of the Finance Department, PIC, Government of Manipur and to convey the final decision of the Government of Manipur to avoid any further contradictions/confusion in the finalization of pension cases of the State Government employees. The State Respondents did not file any counter

affidavit or contest the claim of the petitioner and only the Accountant General, Manipur, appellant herein/respondent No. 6 in the writ petition contested the writ petition by filing counter affidavit. The only ground raised by the appellant/respondent No. 6 in contesting the claim of the petitioner is that the Administrative Department did not calculate the pay scale of the petitioner in terms of the Explanation (3) of Rule 3 of the ROP 2010 read with clarification on point of doubt No. 16 of the Office Memorandum No. 1/4/2008-FD(PIC)(PT)(3) dated 07.07.2010 as well as the ROP (2nd Amendment) 2006. The specific objection raised by the appellant is that the pay scale of the petitioner was not fixed on the basis of the corresponding downgraded pay scale in the grade of Inspector as specified in the ROP (2nd Amendment) 2006.

(iv) The Learned Single Judge observed that respondent No. 1/writ petitioner was promoted to the post of Inspector on 01.07.1996 and was enjoying the pay scale of Rs. 5000-8000/- as provided under the ROP 1999 read with ROP (1st Amendment) 1999 which came into force w.e.f. 01.01.1996. The said pay scale of Rs. 5000-8000/- for the post of Inspector in the Economics and Statistics Department was again revised under ROP (2nd Amendment) 2006 which came into force w.e.f. 01.01.2007. In the said ROP(2nd Amendment) 2006, the pay scale of Inspector was downgraded/decreased from Rs. 5000-8000/- to Rs. 4,500-7000/- only w.e.f. 01.01.2007. It is also an undisputed fact that the writ petitioner had already been promoted to the higher post of Assistant

Director on 11.10.2006 prior to the enforcement of the ROP (2nd Amendment) 2006. As the petitioner had already been promoted to the higher post of Assistant Director prior to the enforcement of the ROP (2nd Amendment) 2006, there was no question of applicability of the downgraded pay scale of Inspector in respect of the petitioner. Even if the petitioner continued as Inspector after enforcement of the ROP (2nd Amendment) 2006, the downgraded pay scale would not be applicable to the writ petitioner in view of the first proviso to Sub-Rule(2) of Rule 1 of the ROP(2nd Amendment) 2006, which provides that the existing pay scale shall be personal to the incumbents concerned till they ceased to hold the post or till the next revision of pay took place. Moreover, the downgraded pay scale of Inspector of Economics and Statistics under the ROP (2nd Amendment) 2006 was revised from Rs. 4500-7000/- to Rs. 5200-20,200/- under the ROP 2010 notionally w.e.f. 01.01.2006 with cash payment from 01.04.2010. It was held that in view of the revision of pay of the Inspector under the ROP 2010, there is absolutely no question of applicability of downgraded pay scale of the Inspector under the ROP (2nd Amendment) 2006 in respect of the writ petitioner. Ultimately, the writ petition was allowed and the appellant/respondent No. 6 was directed to take prompt action from releasing the pension and other retiral benefits due payable to the writ petitioner, retired Assistant Director of Economics and Statistics Department, Government of Manipur in terms of the order dated 27.10.2018 of the Secretary (Eco. & Stats.), Government of Manipur.

[2] The impugned order is challenged amongst on the following grounds:-

(i) Explanation 1 below rule 3(2) of the ROP, 2010 provided that in the case of correction of pay scales, 'existing scale' means existing scale of pay prescribed in column (4) against the post specified in column (2) of Schedule-I, Part- C of the Manipur Services (Revised Pay) (2nd Amendment Rules, 2006).

(ii) In terms of Explanation 3(B) of Memorandum Explanatory to the Manipur Services (Revised Pay) (2nd Amendment) Rules, 2006, as soon as the incumbent concerned ceases to hold the post or till the next revision of pay scale takes place, the personal pay scale (s) shall be no more in existence and the emoluments for the purpose of next revision of pay scales, if any, shall be determined with reference to pay to be regulated in the scale of pay specified in Col.(4) against that post in Col. (2).

(iii) Initial calculation carried out by the Department of Economics & Statistics, Government of Manipur vide order dated 21.12.2017 for the writ petitioner was in conformity with the provisions of ROP, 2010 read with clarification of point of doubt No. 16 under O.M. dated 07.07.2010. The re-fixation of pay based on personal pay vide order dated 27.10.2018 is contrary to the provision of ROP, 2010 read with clarification of point of doubt No. 16 under O.M. dated 07.07.2010.

[3] The State respondents filed counter affidavit and stated that the down gradation of pay scale of Inspector will not affect the case of the writ petitioner/respondent No. 1 herein as he had already been granted higher pay scale of Rs. 5500-175-9000/- from 01.07.2005 (as ACP-II in the hierarchy post of Assistant Director) and from 11.10.2006 (being promoted to Assistant Director). It is clarified that both the dates of ACP-II and promotion to Assistant Director were prior to the effective date of the down gradation order which was effective from 01.01.2007 vide ROP (2nd Amendment) 2006. It is also stated that as per Rule 3 of the Memorandum Explanatory to the ROP (2nd Amendment) 2006, date of effect for the revision of scales of pay at Col. 4 are applicable to the cases of direct recruits and promotions made on or after 01.01.2007 except as specifically shown in the Remarks Col. (5) of the Annexures. It is stated that as per Rule 3 of the Memorandum Explanatory, the effective date of pay revision ROP (2nd Amendment) 2006 would be 01.01.2007, much after the date of ACP-II i.e. 01.07.2005 and regular promotion to Assistant Director i.e. 11.10.2006. It is stated that downgraded pay scale of the Inspector would not be applicable while calculating the pensionary benefit of the writ petitioner as he had already been promoted to the post of Assistant Director prior to the date of infringement of ROP(2nd Amendment) 2006.

[4] During the course of hearing, Mr. S. Suresh, learned counsel for the appellant, stated that the Administrative Department has wrongly calculated the upgraded pay scale of personal pay of the writ petitioner in

the post of Inspector for calculating the pensionary benefits. According to the learned counsel, this amounts to over payment of pensionary benefits to the writ petitioner. However, Mr. S. Suresh, learned counsel for the appellant, pointed out to ROP 2010 Rules 16 which states that in case there is no relief to the interpretation of any provision of this rule and letter dated 06.02.2023 sent by Deputy Secretary, (Finance/PIC), Government of Manipur to Sr. Deputy Accountant General (A&E), this shall be referred to Finance Department (PIC), whose decisions shall be final. Learned counsel for the appellant fairly submits that this Court may pass appropriate order in terms of Rule 16 of the ROP 2010 and letter dated 06.02.2023.

[5] Mr. R.K. Umakanta, learned G.A., submits that as the writ petitioner had already been granted the higher pay scale of Rs. 5500-175-9000/- w.e.f. 01.07.2005(as ACP-II in the hierarchy post of Assistant Director) and from 11.10.2006 (being promoted to Assistant Director) much before the effective date of 2nd ROP i.e. 01.01.2007 which downgraded the pay scale of the Inspector from 5000 to 4500. Learned G.A. submits that there is no error on the part of the Administrative Department in calculating the pensionary benefits of the writ petitioner in terms of the order dated 27.10.2018.

[6] Mr. Ajoy Pebam, learned counsel for the writ petitioner/respondent No. 1, submits that there is no infirmity in the impugned order as learned Single Judge has rightly held that as the writ petitioner was promoted to the higher grade of Assistant Director on

01.01.2005 much before the infringement of the downgraded pay scale of Inspector by ROP (2nd Amendment), 2006 w.e.f. 01.01.2007, the calculation made by the Administrative Department is correct and prayed that the writ appeal be dismissed with costs. Learned counsel relies upon the judgment of Hon'ble Supreme Court in the case of **State of U.P vs. Smt. Priyanka** reported as **2023 LiveLaw (SC) 95**, while dismissing the appeal filed by the State Government in respect to death-cum-retirement gratuity, a cost of Rs. 50,000/- was imposed on the State of U.P. to be paid to the widow of the deceased employee.

[7] We have heard the learned counsel for the parties, perused the materials on record and relevant case law in this regard.

[8] As held by the learned Single Judge, it is an admitted fact that the writ petitioner/respondent No. 1 herein was granted ACP-II while he was serving as Inspector, Directorate of Economics & Statistics, Government of Manipur. He was granted the higher grade pay of equivalent in the cadre of Assistant Director by way of ACP-II w.e.f. 01.07.2005 and he still continue to enjoy the higher grade pay of Assistant Director upon his promotion to the said post on 11.10.2006. The effective date of ROP (2nd Amendment) 2006 was 01.01.2007 and it has downgraded the pay scale of Inspector from Rs. 5,000/- to Rs. 4,500/-. Rule 3 of Memorandum Explanatory to the ROP (2nd Amendment) 2006 prescribes the effective date of infringement as 01.01.2007. Rule 16 of ROP 2010 prescribes that in case of any question relating to the infringement of any provision of rules, the opinion and finding

of the Finance Department (PIC) shall be final. In this regard, Deputy Secretary, (Finance/PIC), Government of Manipur, wrote a letter dated 06.02.2023 to the Sr. Deputy Accountant General (A&E) Manipur clarifying that ROP (2nd Amendment) Rules, 2006 would be applicable in the case of direct recruits and promotions made on or after 01.01.2007 except for specifically shown in the Remark Column. It was clarified in that letter that the writ petitioner was already granted higher scale of Rs. 5500-175-9000 from 01.07.2005 (as ACP-II) and 11.10.2006 (being promoted to Assistant Director) and both this dates are prior to the effective date of the down gradation order which is effective from 01.01.2007. In view of the clarification letter dated 06.02.2023 sent by the Deputy Secretary, (Finance/PIC), Government of Manipur to the Sr. Deputy Accountant(A&E) Manipur, it is clear that the writ petitioner was entitled to the calculation of pension and other benefits made in terms of the order dated 27.10.2018.

[9] We don't find any merit in the case. The appeal is dismissed. However, the parties are directed to bear their own costs.

[10] MC(W.A.) No. 177 of 2022 is disposed of in terms of the order passed in W.A. No. 110 of 2022.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

Indrajeet