

IN THE HIGH COURT OF MANIPUR : AT IMPHAL

W.P.(C) No. 1073 of 2018

Mr. K.T. Lovejoy, aged about 44 years, S/o Late Micheal Lungshi, resident of Pushing Village, P.O. & P.S. Shangshak, Ukhrul District, Manipur.

... Petitioner

-Versus-

1. The State of Manipur, represented by the Commissioner/Secretary (Education), Government of Manipur, Old Secretariat Complex, Imhal-795001.
2. The Director of Education(S), Govt. of Manipur, Imphal, Directorate of Education(S) Complex, PO & PS Lamphelpat, Imphal West District, Manipur-795004.
3. The Additional Director of Education(S) Hills, Govt. of Manipur, Imphal, Directorate of Education(S) Complex, PO & PS Lamphelpat, Imphal West District, Manipur-795004.
4. The Zonal Education Officer, Ukhrul, Govt. of Manipur, Zonal Education Office, Phungreitang, P.O. ;P.S & District Ukhrul, Manipur-795142.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:: Mr. Mark Khapai, Advocate
For the respondents	:: Mr. A. Vashum, Government Advocate
Date of Hearing	:: 29-08-2023
Date of Judgment & Order	:: <u>12-09-2023</u>

JUDGMENT & ORDER

Heard Mr. Mark Khapai, learned counsel appearing for the petitioner and Mr. A. Vashum, learned Government Advocate appearing for the respondents.

[2] The present writ petition had been filed by the petitioner with a prayer for directing the respondents to consider his case for appointment to any suitable post under the Die-in-harness scheme within a stipulated period.

[3] The brief facts of the present case is that the petitioner's father Late Micheal Lungshi expired on 13-06-2006 due to illness while he was serving as Headmaster of Pushing Junior High School, Ukhrul District, in the Education(S) Department, Govt. of Manipur. According to the petitioner, he has successfully passed the Pre-University Examination in Science stream in the year 1992 from the Manipur University and he is also within the age limit as prescribed under the relevant Recruitment Rules for his appointment under any suitable Grade-III or Grade-IV posts. Accordingly, on the sudden and untimely demise of his father, the petitioner submitted an application to the authorities in the month of October, 2006 requesting for his appointment to any suitable posts under the Die-in-harness scheme.

[4] It is the case of the petitioner that the application submitted by him was also forwarded by the Headman of the petitioner's village to the Director of Education(S), Govt. of Manipur under cover of a letter dated 07-08-2007 for consideration and necessary action. The Zonal Education Officer, Ukhrul, Government of Manipur also submitted the petitioner's application for his appointment under the Die-in-harness scheme to the Additional Director of Education(S) Hills, Govt. of Manipur along with all the required documents under cover of a letter dated 28-04-2008. Subsequently,

after proper verification, the Deputy Commissioner, Ukhrul also forwarded the relevant documents /certificates of the petitioner in connection with his appointment under the Die-in-harness scheme under cover of a letter dated 08-01-2010. Ultimately, the Director of Education(S), Govt. of Manipur submitted relevant documents along with duly filled Proforma-‘B’ in connection with the appointment under the Die-in-harness scheme in respect of 164 applicants, including the present petitioner, under cover of a letter dated 10-04-2015 with a request for taking appropriate action. Despite the timely submission of application and all the required documents for his appointment under the Die-in-harness scheme, the respondents have failed to consider the case of the petitioner till today. Having been aggrieved, the petitioner approached this Court by filing the present writ petition for redressing his grievance.

[5] Mr. Mark Khapai, learned counsel appearing for the petitioner submitted that the petitioner submitted his application for his appointment under the Die-in-harness scheme along with all the required documents in time and that the concerned authorities of the Education(S) Department, after obtaining verification report from the Deputy Commissioner, Ukhrul, also submitted the petitioner’s application to the Secretary of Education (S), Govt. of Manipur with a proposal for appointing the petitioner under the Die-in-harness scheme. It is also submitted by the learned counsel that the petitioner is qualified and eligible in terms of the relevant Recruitment Rules and Die-in-harness scheme for his appointment against any suitable Grade-III or Grade-IV posts under the Government of Manipur and that non consideration of the petitioner’s case for his appointment under the Die-in-harness scheme is arbitrary and discriminatory. The learned counsel further submitted that the present writ petition may be disposed of by directing the respondents to consider the case of the petitioner for his

appointment against any suitable posts under the Die-in-harness scheme within a stipulated period.

[6] Mr. A. Vashum, learned Government Advocate appearing for the respondents submitted that the revised scheme for appointment under the Die-in-harness under the Office Memorandum dated 04-10-2001 was abolished by the Government by issuing an order dated 15-06-2002. After about four years later, the abolished scheme for appointment under the said Die-in-harness was restored by the Government by issuing an order dated 16-12-2006. Subsequently, the State Government issued another Office Memorandum dated 06-06-2007 issuing certain clarification in connection with the scheme for appointment under the Die-in-harness to address the issues relevant to early disposal of the claims. The learned Government Advocate submitted that under the said Office Memorandum dated 06-06-2007, it is clearly mentioned at paragraph no. I & II that the applications submitted in between 15-06-2002 and 16-12-2006 shall be treated as invalid applications and that applicants whose applications have been treated as invalid should submit fresh application to the concerned department within two months from the date of issue of the said Office Memorandum.

[7] It has been submitted by the learned Government Advocate that the petitioner's father expired on 13-06-2006 and the petitioner submitted his application in October, 2006 which was during the period when the Die-in-harness scheme was abolished and accordingly, the application submitted by the petitioner in the months of October, 2006 should be treated as invalid application. The learned Government Advocate further submitted that the petitioner also did not submit a fresh application within two months from the date of issue of the said Officer Memorandum dated 06-06-2007 as provided under para II of the said Office Memorandum and as such the authorities did

not consider the case of the petitioner for his appointment under the Die-in-harness scheme. The learned Government Advocate, further submitted that the authorities have not committed any illegalities and the present writ petition is liable to be dismissed as being devoid of merit.

[8] I have heard the submissions of the learned counsel appearing for the parties at length and also examined the materials available on record. It is undeniably on record that the petitioner submitted his application in the month of October, 2006 requesting the authorities for his appointment under the Die-in-harness scheme and the petitioner also submitted all the required documents as contemplated under the Die-in-harness scheme. It is also on record that the concerned authorities of the Education(S) Department received the said application submitted by the petitioner and acted on it by taking necessary steps for verification process of the claim made by the petitioner and the documents submitted by him. After obtaining the verification report from the Deputy Commissioner, Ukhrul, who happens to be the competent authority, the Director of Education(S), Government of Manipur, forwarded the case of the petitioner along with other claimants to the Secretary of Education(S), Govt. of Manipur, with a proposal for taking appropriate action.

[9] On careful examination of the materials available on record, this Court is of the considered view that the petitioner is qualified and eligible in every respect for his appointment to any suitable Grade-III or Grade-IV posts as provided under the Die-in-harness scheme. The only ground given by the authorities for rejecting the valid claim of the petitioner is that the petitioner did not submit a fresh application as provided under para II of the aforesaid Office Memorandum dated 06-06-2007. In this regard, the explanation given by the petitioner in this rejoinder affidavit is that he is living in a remote hill village far away

from the main headquarter of Ukhurul and as such he has no information or idea regarding the issuance of the aforesaid Office Memorandum dated 06-06-2007. It is also stated that the said Office Memorandum was not published in any daily newspaper by the government authorities and as the petitioner has no idea or information about the issuance of the said Office Memorandum, he could not submit a fresh application within the period of two months as prescribed under the said Office Memorandum.

[10] We should keep in mind that the scheme for appointment under the Die-in-harness is a benevolent and beneficial policy framed by the Government with the object for mitigating the hardship and difficulties of the family members of a government servant due to his sudden and untimely demise. The authorities while considering or examining the claim for appointment under the Die-in-harness scheme should dealt with it keeping in mind the ultimate object and purpose of the Die-in-harness scheme, meaning thereby that such claim should be dealt with humanly and sympathetically and every help or assistance should be extended to carry out or fulfil the ultimate objective of the scheme. In my considered view, a claim for appointment under the Die-in-harness scheme, if otherwise found to be qualified and eligible, should not be rejected on the ground of minor defects or minor technicalities, which will result in defeating the very purpose of the scheme.

[11] In the present case, the concerned authorities have already acted on the application submitted by the petitioner by processing it in terms of the condition laid down under the Die-in-harness scheme and submitted a proposal to the Government for taking appropriate action. When such proposal along with all the required documents in respect of the petitioner is before the concerned authorities and as the petitioner is found to be qualified and eligible in

every respect for his appointment under the Die-in-harness scheme, non consideration of his claim by the authorities only on the ground of non submission of a fresh application as contemplated under para II of the Office Memorandum dated 06-06-2007 is in my considered view, unreasonable, arbitrary, discriminatory and unsustainable. This Court cannot give its countenance to such stand of the Government.

[12] In the result, the present writ petition is allowed by directing the respondents to consider the case of the petitioner for his appointment to any suitable posts under the Die-in-harness scheme. The whole process should be completed within a period of two months from the date of receipt of a certified copy of this order.

[13] With the aforesaid directions, the present writ petition is disposed of. Parties are to bear their own costs.

JUDGE

Dhakeshori

FR/NFR

LAISHRAM
DHAKESH
ORI DEVI

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