

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

WP(C) No. 1127 of 2018

K. Liansangpuii

... Petitioner

Vs.

State of Manipur & ors.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

24-07-2023

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Ms. Th. Rebati, learned counsel appearing for the petitioner, Mr. Niranjana Sanasam, learned GA appearing for the respondents No. 1 to 4 and Mr. S. Suresh, learned counsel appearing for the respondent No. 5.

[2] The present writ petition had been filed with the prayer for quashing and setting aside the Memorandum dated 27-03-2015 and the Memorandum dated 27-08-2015 issued by the respondent No. 4 and respondent No. 1 respectively for holding a Preliminary Enquiry and Departmental Enquiry against the petitioner coupled with the prayer for directing the respondents to release the pension and other retiral benefits due payable to the petitioner.

[3] The facts of the present case, in a nutshell, is that while the petitioner was serving as a Head Clerk in the Department of Minorities and Other Backward Classes (MOBC), he was placed under suspension by an order dated 04-06-2011 in contemplation of a disciplinary proceeding against him under the provision of CCS(CCA) Rules, 1965. Thereafter, the Director, MOBC issued a Memorandum dated 27-03-2015 for conducting a preliminary enquiry against the petitioner in connection with the Articles of Charge enclosed in the said Memorandum. Subsequently, the Secretary (MOBC), Government of Manipur issued another Memorandum dated 27-08-2015 for holding a departmental enquiry against the petitioner under the provisions of the CCS (CCA) Rules, 1965 in connection with the Articles of Charge enclosed in the said Memorandum. It is the case of the petitioner that during the pendency of the said departmental enquiry and before completion of the said departmental enquiry, the petitioner expired on 19-05-2020. After the death of the original petitioner, the wife of the petitioner has been brought on record as a legal representative of the deceased petitioner.

[4] Mr. Kh. Tarunkumar, learned senior counsel appearing for the petitioner submitted that since the charged Government employee had expired before completion of the departmental enquiry initiated against him, the authorities can no longer proceed with the said departmental enquiry against the deceased Government employee and the said departmental enquiry is liable to be closed in terms of the Office Memorandum dated 20-10-1999 issued by the Government of India in connection with Rule 15 of the CCS (CCA) Rules. For ready reference, the contents of the said Office Memorandum are reproduced hereunder:-

“(4) Disciplinary cases should be closed on the death of the charged official. – The Department has been receiving references seeking clarification whether disciplinary cases initiated against the Government servant under CCS(CCA) Rules, 1965, could be closed in the event of death of the charge officer during pendency of the proceedings. After careful consideration of all the aspects, it has been decided that where a Government servant dies during the pendency of the inquiry, i.e., without charges being proved against him, imposition of any of the penalties prescribed under the CCS(CCA) Rules, 1965, would not be justifiable. Therefore, disciplinary proceedings should be closed immediately on the death of the alleged Government servant.”

[G.I. Dept. of Per. & Trg. O.M. No. 11012/7/99-Estt.(A), dated the 20th October, 1999]

[5] The learned senior counsel further submitted that in view of the aforesaid Office Memorandum issued by the Government of India, the authorities are duty bound to close the departmental enquiry initiated against the deceased Government employee and the wife of the deceased Government employee, who is now the petitioner in the present writ petition is entitled to receive the retiral and other service benefits due payable to her deceased husband. The learned senior counsel, accordingly, submitted that the present writ petition may be disposed of by directing the authorities to close the said departmental enquiry initiated against the husband of the petitioner and to release the retiral and other service benefits due payable to her deceased husband within a stipulated period.

[6] Mr. Niranjana Sanasam, learned GA appearing for the respondents No. 1 to 4 fairly submitted that as the husband of the present writ petitioner had already expired before completion of the departmental enquiry initiated against him, the authorities can no longer proceed with the said departmental enquiry and the authorities are duty bound to close the said departmental enquiry in view of the aforesaid Office Memorandum dated 20-10-1999. On the other hand, Mr. S. Suresh, learned counsel

appearing for the respondent No. 5 also submitted that the process for releasing the retiral and other service benefits due payable to the deceased husband of the petitioner can be proceeded by the Accountant General only after the concerned authorities of the State Government closed the departmental enquiry pending against the deceased husband of the petitioner and after necessary pension papers are furnished to them.

[7] After hearing the submissions advanced by the learned counsel appearing for the parties and after careful consideration of the materials available on record, this court is of the considered view that as the charged Government employee had expired during the pendency of the departmental enquiry initiated against him and before completion of the said departmental enquiry, the authorities cannot proceed any further with the said departmental enquiry and the authorities are duty bound to close the said departmental enquiry on the death of the charged Government employee as provided under the aforesaid Office Memorandum dated 20-10-1999. Accordingly, the present writ petition is disposed of by giving the following directions:-

- (a) The respondent No. 1 and respondent No. 4 are hereby directed to close the departmental enquiry initiated against the deceased Government employee, viz., Late Shri B. Malsawma, pursuant to the Memorandum dated 27-03-2015 and the Memorandum dated 27-08-2015 by issuing necessary orders within a period of one month from the date of receipt of a certified copy of this order; and
- (b) The respondents No. 1 to 5 are further directed to initiate necessary process for releasing the retiral/ pensionary benefits due payable to the aforesaid deceased Government employee in favour of his wife, viz., Smt. K. Liansangpuii and to complete the whole process within a period of six months from the date of receipt of a certified copy of this order.

With the aforesaid directions, the present writ petition is disposed of. There will be no order as to cost.

JUDGE

Devananda

SHOUGRA
KPAM
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DA SINGH

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

MC(WP(C)) No. 11 of 2019

(Ref:- WP(C) No. 1127 of 2018)

B. Malsawma

... Applicant

Vs.

State of Manipur & ors.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

24-07-2023

In view of the order passed today in the connected writ petition,
the present application is hereby closed.

JUDGE