



THE GAUHATI HIGH COURT

**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)**

Writ Appeal No.136/2022

1. Lalramthara Pachuau,
S/o- Lalrinawma Pachuau,
R/o- Model Veng,Aizawl, Mizoram.
2. R.D. Lalthansanga,
S/o Sanghleia (L)
R/o- Khatla East,Aizawl, Mizoram.
3. Rosie Lanuntluangi Mualchin,
D/o Rothangliana Mualchin
R/o- ITI Veng,Aizawl, Mizoram.
4. R. Vanlalhriata
S/o- Sangzika,
R/o Bethlehem Vengthlang,
Aizawl, Mizoram
5. Lalsawikima,
S/o- Zasawia,
R/o- Chhing Veng,
Aizawl, Mizoram.

.....Appellants

-Versus-

1. Mizoram University (MZU),
Represented by its Vice Chancellor,
Tanhrlil, Aizawl, Mizoram.
2. The Registrar, Mizoram University,
Tanhrlil, Aizawl, Mizoram.
3. Pachhunga University College,
Represented by its Principal,
College Veng, Aizawl, Mizoram.

..... ***Respondents***

– B E F O R E –

**HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA**

For the Appellant : Mr. L. Sailo, Advocate.

For the Respondents : Mr. I. Chowdhury, Sr. Advocate,
assisted by Mr. A.K. Baruah,
Advocate.

Date of judgment& Order : 27.04.2023.

JUDGMENT & ORDER

S. Mehta, C.J.

This instant intra-Court writ appeal is directed against the judgment and order dated 09.09.2021 passed by the learned Single Judge dismissing the writ petition, being, WP(C) 96/2019 preferred by the appellants and negating their claim for grant of benefit under the Modified Assured Career Progression Scheme (MACPS) and denying the

petitioners/appellants the benefit of financial upgradation under the said scheme.

2. Heard Mr. L. Sailo, learned counsel for the appellants and Mr. I. Chowdhury, learned senior counsel appearing for the respondent Nos.1 &2.

3. The appellant Nos.1, 3, 4 & 5 were originally appointed as Junior Laboratory Assistant in the Pachhunga University College (PUC), the erstwhile North Eastern Hill University (NEHU) whereas, the appellant no.2 was appointed as Senior Laboratory Assistant in the same University. Pursuant to the decision taken in the 26th meeting of the Executive Council of MZU on 05.10.2010, the appellants' posts came to be re-designated as Laboratory Assistant in the scale of PB-1 Rs.5200-20200 with Grade Pay of Rs.2000/-.

The grievance of the petitioners is that they have been denied the benefit of the first MACPS on completing ten years of service only on the ground that they were granted Grade Pay of Rs.2000/- on account of their original posts being re-designated as Laboratory Assistants. Mr. Sailo contended that admittedly, the writ petitioners/appellants had completed ten years of service in the years 2005 (appellant no.1) and 2007 (appellant no.2) and thus, they were entitled to receive the benefit of the first financial upgradation under the MACPS on completing ten years of service. His contention was that merely because the posts of the appellants herein were re-designated as Laboratory Assistant, they cannot be denied financial upgradation under the MACPS. As per Mr. Sailo, this re-designation of post did not result into any financial

upgradation as is claimed by the respondents. He further submitted that the view taken by the learned Single Judge that the Grade Pay of the writ petitioners was enhanced upon re-designation of the posts is absolutely unjustified. He thus, implored the Court to accept the appeal and set aside the impugned judgment and direct the respondents to grant benefit of MACPS to the appellants from the date they became eligible upon completion of ten years of regular service.

4. *Per contra*, Mr. I. Chowdhury, learned senior counsel representing the respondent Nos.1 & 2 vehemently and fervently opposed the submissions advanced by the appellants' counsel. He urged that no sooner, the appellants' posts were re-designated as Laboratory Assistants, they got promoted from Post/Grade S-5 to Post/Grade S-6. Not only this, they were granted further financial upgradation to the Grade Pay of Rs.2400/- in terms of the recommendation made by UGC and the revised core pay scale of Rs.2400/- was given to all Laboratory Assistants under the MZU and PUC vide Notification dated 29.05.2015.

He urged that as a matter of fact by this revision in Grade Pay, the appellants had received effect of two promotions from Post/Grade-5 to Post/Grade-7. In order to buttress his contention, Mr. Chowdhury drew attention of this Court to the First Schedule appended to the Central Civil Services (Revised Pay) Rules, 2008 (hereinafter referred to as '2008 Rules'). He thus urged that the appellants already having received benefit of two upgradations in the scale of pay, cannot claim the benefit under MACPS.

5. We have given our thoughtful consideration to the submissions advanced at Bar and gone through the material available on record. We have carefully perused the 2008 Rules and the Schedule annexed thereto. It is an admitted position that the appellants who were originally appointed in the post of Junior Laboratory Assistant and Laboratory Assistant in the erstwhile NEHU and MZU, were re-designated as Laboratory Assistants, in the PB-1 Rs.5200-20200 with Grade Pay of Rs.2000/- w.e.f. 29.04.2011. Prior thereto, the appellants herein were claiming Grade Pay of Rs.1900/-. There is no dispute that the pay structure of the appellants is governed by the 2008 Rules. As per the First Schedule appended to the 2008 Rules, the Post/Grade of S-5 which falls in PB-1 is afforded Grade Pay of Rs.1900/-. The Post/Grade of S-6 which falls in PB-1 is entitled to Grade Pay of Rs.2000/- and Post/Grade of S-7 which falls in PB-1 receiving Grade Pay of Rs.2400/-. The difference in pay scales which these three posts draw is extracted hereinbelow from Schedule 1:

Present Scale			Revised Pay structure		
Sl No.	Post/ Grade	Present Scale	Name of Pay Band/Scale	Corresponding Pay Bands/Scales	Corresponding Grade Pay
...					
6	S-5	3050-75-3950-80-4590	PB-1	5200-20200	1900
7	S-6	3200-85-4900	pB-1	5200-20200	2000
8	S-7	4000-100-600	PB-1	5200-20200	2400
...					

6. There is no dispute that after re-designation to the post of Laboratory Assistant, the appellants started getting the Grade Pay of Rs.2000/- which would carry them from Post/Grade S-5 to Post/Grade S-6. With the further removal of anomaly pursuant to recommendation of UGC, all Laboratory Assistants have been granted Grade Pay of Rs.2400/- which would bring the appellants to Post/Grade S-7 having a pay scale of Rs.4000-100-600. Manifestly thus, appellants have already received two financial upgradations in the corresponding period and hence, they are not entitled to claim the benefit of MACPS which would only be available in case the employee is stagnated at a particular Grade Pay for 10, 20 or 30 years, as the case may be. The appellants having already received financial upgradations owing to the circumstances noted above, cannot claim dual benefits under the MACPS. The view taken by the learned Single Judge in rejecting the writ petition of the appellants does not suffer from any infirmity warranting interference. Hence, this writ appeal fails and the same is dismissed being devoid of merit.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant