

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

WP(C) No. 32 of 2019

Chongtham Rakesh Singh

... Petitioner

Vs.

State of Manipur & ors.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

29-02-2024

[1] Heard Ms. Rinika Maibam, learned counsel appearing for the petitioner and Mr. Th. Vashum, learned GA appearing for the respondents.

The present writ petition had been filed assailing the order dated 29-10-2018 issued by the Director of Education (S), Government of Manipur rejecting the claim of the petitioner for his appointment under the Die-in-Harness Scheme.

[2] The brief facts of the present case are that the father of the petitioner namely, (L) Ch. Ramananda Singh, while serving as Assistant Science Graduate Teacher in Madhumati High School, died on 18-07-2003. After the death of the petitioner's father, the petitioner's mother submitted an application dated 21-08-2003 to the Director of Education (S), Government of Manipur, requesting for appointing her to any suitable post under the Die-in-Harness Scheme. When the authorities failed to take up any action in connection with the application submitted by the petitioner's mother, the petitioner's mother again submitted another application dated 23-03-2007 to the Director of Education (S), Government of Manipur, requesting for considering the case of the petitioner for his appointment under the Die-in-Harness Scheme. In the said application, it is mentioned that the subsequent application had been submitted as the authorities failed to take up any action with regard to her earlier application and as all the documents submitted earlier having been lost by the staff of the Director of Education (S), Government of Manipur.

[3] Subsequently, the Director of Education (S), Government of Manipur, issued an order dated 09-11-2016 thereby rejecting 306

applications for appointment under the Die-in-Harness Scheme including the application submitted on behalf of the petitioner. In the Annexure attached to the said order dated 09-11-2016, the name of the petitioner appears at Sl. No. 129.

[4] Having been aggrieved, the petitioner challenged the said order dated 09-11-2016 by filing a writ petition being WP(C) No. 113 of 2017 before this court. The said writ petition was disposed of by this court along with a batch of other writ petitions by a common judgment and order dated 05-12-2017. In the said judgment, this court quashed the impugned order dated 09-11-2016 in respect of the petitioners therein and issued certain directions, which are as under:-

“[12] In view of the above and for the reasons stated hereinabove, all the writ petitions are allowed and consequently, the order dated 09-11-2016 is quashed in respect of the present petitioners with the following directions:-

- (a) The applications submitted by the petitioners shall be treated as valid;*
- (b) The cases of the petitioners shall be considered by the respondents, within a period of two months from the date of receipt of a copy of this judgment and order, in terms of the Die-in-Harness Scheme as restored vide order dated 16-12-2006 subject to other conditions mentioned therein like educational qualifications, seniority, etc. and they shall be appointed, if they are found to have fulfilled the said conditions. There shall be no order as to costs.”*

[5] In purported compliance with the directions given by this court, the Director of Education (S), Government of Manipur, issued an order dated 29-10-2018 thereby rejecting the claim of the petitioner for his appointment under the Die-in-Harness Scheme. The grounds for rejecting the claim of the petitioner for his appointment under the Die-in-Harness Scheme, as contained in the said order, are as under:-

“5. And, whereas the claim of the present petitioner, Shri Chongtham Rakesh Singh for appointment under Die-in-Harness Scheme was also considered and examined scrupulously in view of the directive of the Hon'ble High Court dated 05/12/2017 as well as in terms of the Office Memorandum No. 20/15/2002-DIH/DP dated 01/04/2011 issued in this regard by a Department of Personnel & Administrative Reforms (Personnel Division), Government of Manipur, wherein it is

stated as quoted herein, “to consider cases in which the applicant was 15 years of age when his/ her father/ mother and unmarried brother/ sister expired provided that the application is submitted within 3 (three) years from the date of expiry of the Government Servant”. However, as per the High School Leaving Certificate, 2006, wherein his date of birth was found to have been recorded as “3rd March, 1991, the said Shri Chongtham Rakesh Singh was found to be underage on 18/07/2003 on which his father late Ch. Ramananda Singh, Ex-Science Graduate Teacher expired.

- 4. In consideration of the facts and circumstances stated above, it has been arrived to the conclusion as ordered herein that the claim of the petitioner for appointment under die-in-harness scheme stands rejected.*
- 5. This is issued in compliance with the order dated the 5th December, 2017 of the Hon’ble High Court of Manipur passed in WP(C) No. 113 of 2017.”*

Having been aggrieved, the petitioner approached this court again by filing the present writ petition for redressing his grievances.

[6] Ms. Rinika Maibam, learned counsel appearing for the petitioner submitted that the directions given by this court in the common judgment and order dated 05-12-2017 passed in WP(C) No. 113 of 2017 and other analogous writ petitions are very clear. The specific directions given by this court in the said judgment and order is that the applications submitted by the petitioners shall be treated as valid and that the case of the petitioners shall be considered by the respondents within a period of two months from the date of receipt of a copy of the judgment and order in terms of the Die-in-Harness Scheme as restored vide order dated 16-12-2006 subject to other conditions mentioned herein like educational qualifications, seniority, etc. and they shall be appointed, if they are found to have fulfilled the said conditions. It has also been submitted by the learned counsel appearing for the petitioner that as per the directions given by this court, the case of the petitioner is to be considered in terms of the Die-in-Harness Scheme which existed on or before 16-12-2006, on which date the said Die-in-Harness Scheme was restored. The learned counsel vehemently submitted that instead of considering the case of the petitioner in terms of the earlier Die-in-Harness Scheme which existed before 16-12-2006, the

authorities considered the case of the petitioner in terms of the Office Memorandum dated 01-04-2011 issued in connection with appointment under the Die-in-Harness Scheme and rejected the claim of the petitioner. According to the learned counsel, the consideration of the case of the petitioner under the said Office Memorandum dated 01-04-2011 and rejection of his claim on the basis of such O.M. is ultra vires the directions given by this court in the aforesaid common judgment and order and as such, the rejection of the claim of the petitioner is not sustainable in the eyes of law and accordingly, the impugned order dated 29-10-2018 is liable to be quash and set aside. The learned counsel also submitted that the claim of the petitioner deserves to be reconsidered in terms of the Die-in-Harness Scheme which existed on or before 16-12-2006 in terms of the directions given by this court.

[7] Mr. Th. Vashum, learned GA appearing for the respondents fairly submitted that on perusal of the impugned order dated 29-10-2018, it is clearly revealed that the authorities consider the claim of the petitioner for his appointment under the Die-in-Harness Scheme in terms of the Office Memorandum dated 01-04-2011 and rejected his claim on the basis of the said Office Memorandum. The learned GA elaborated this point by submitting that under the said O.M., it is, inter alia, provided that an applicant must be 15 (fifteen) years of age on the date when his father/mother expired, however, in the present case as the petitioner was less than 15 years on the date his father expired, the authorities rejected the claim of the petitioner on this ground. The learned GA strenuously submitted that in rejecting the claim of the petitioner, the authorities have not committed any illegality and that the said impugned order has been issued strictly in terms of the aforesaid Office Memorandum dated 01-04-2011 and as such, the present writ petition deserves to be dismissed as being devoid of merit.

[8] I have heard at length the rival submissions advanced by the learned counsel appearing for the parties and also carefully examined the materials available on record. In the present case, this court earlier issued specific directions to consider the case of the petitioner in terms of the

Die-in-Harness Scheme as restored vide order dated 16-12-2006 subject to other conditions mentioned therein and if he is found to have fulfilled the said conditions, he should be given appointment. In my considered view, the plain meaning of the directions given earlier by this court is to consider the case of the petitioner in terms of the Die-in-Harness Scheme which existed on or before 16-12-2006 and not on the basis of any other Die-in-Harness scheme or Office Memorandum issued subsequent to 16-12-2006.

[9] In the present case, from plain reading of the impugned order, it is crystal clear that the claim of the petitioner for his appointment under the Die-in-Harness Scheme has been considered in terms of the Office Memorandum dated 01-04-2011 and rejected his claim on the basis of the said Office Memorandum. In my considered view, such consideration of the petitioner's claim and rejection thereto is contrary to the directions given earlier by this court in the aforesaid common judgment and order dated 05-12-2017 and as such, this court is of the considered view that the petitioner has been able to make out a case for interfering with the impugned order.

[10] In the result, the impugned order dated 29-10-2018 issued by the Director of Education (S), Government of Manipur is hereby quashed and set aside. The respondents are directed to re-consider the case of the petitioner strictly in terms of the earlier direction given by this court in the common judgment and order dated 05-12-2017 within a period of three months from the date of receipt of a certified copy of this order.

With the aforesaid direction, the present writ petition is disposed of. Parties are to bear their own cost.

JUDGE

Devananda