

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

WP (C) No. 260 of 2023

1. The State of Manipur represented by the Commissioner (Education/S), Government of Manipur, Secretariat, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur-795001.

..... *Petitioner*

Vs.

1. S. Ibotombi Singh, President, Government Aided School Retired Teachers' Association, Bishnupur District, Manipur.
2. M. Ibochouba Singh, Secretary, Government Aided School Retired Teachers' Association, Bishnupur, Bishnupur District, Manipur.

.....*Respondents*

3. The Manipur Human Rights Commission represented by its Secretary, Court Complex, Lamphalpat, Imphal-795004.

.....*Proforma Respondent*

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

For the Petitioner : Mr. Th. Vashum, GA.

For the respondents No. 1 & 2 : Mr. M. Ibohal, Adv.

Date of Hearing : 07.05.2024.

Date of Judgment & Order (Oral) : 07.05.2024.

**JUDGMENT & ORDER
(ORAL)**

[1] Heard Mr. Th. Vashum, learned Government Advocate appearing for the petitioner and Mr. M. Ibohal, learned counsel appearing for the respondents No. 1 & 2.

None appeared for the respondent No. 3.

[2] The present writ petition has been filed assailing the proceeding/order dated 14.12.2020 passed in Manipur Human Rights Commission Complaint Case No. 132 of 2019 and proceeding/order dated 24.08.2022 passed in Manipur Human Rights Commission Complaint Case No. 57 of 2022.

[3] The case of the petitioner is that the respondents No. 1 & 2 initially approached the Manipur Human Rights Commission by filing the Manipur Human Rights Commission Complaint Case No. 132 of 2019, alleging, inter alia, that even though the respondents No. 1 & 2 and members of the association represented by the said respondents No. 1 & 2 are entitled to pensionary and other retiral benefits, the State Government has ignored their case and their entitled retiral and pensionary benefits has not been given by the State Government thereby depriving their right to livelihood and that the State Government violated their Human Rights.

[4] In the complaint, the respondents No. 1 & 2 also prayed for making a recommendation to the State Government for considering the cases of the members of the association, who are retired teachers of the Government Aided Schools, for giving their retiral and pensionary benefits.

[5] After hearing both sides and after considering the documents placed before it, the Manipur Human Rights Commission passed the impugned proceeding/order dated 14.12.2020 by making the following recommendation/order:-

"RECOMMENDATION/ORDER"

For the facts, observations, discussions and reasons hereinbefore given this Commission is of the view that complainants including the teachers given in the 1 List at para No. 2 (viii) are entitled to and should therefore, receive and enjoy pension/pensionary benefits including gratuities Complainants/Association members through their President and Secretary are, therefore, directed to apply to the competent government authority/authorities together with the copies of today's proceedings who should consider and decide by speaking order their claim in the light of the aforesaid observations, discussions and reasons within a period of 30

(thirty) days from the date of receipt of complainants application by the said authority/authorities, under intimation to this Commission.

Case is accordingly disposed of.

Registry to take steps accordingly.”

[6] When the State Government did not take any positive action pursuant to recommendation/order made by the Manipur Human Rights Commission, the respondents No. 1 & 2 again approached the Manipur Human Rights Commission by filing another Complaint Case No. 57 of 2022 and the said Complaint Case was disposed of by the Commission by an order dated 24.08.2022, thereby redirecting the authorities of the State Government to fully implement the earlier proceeding/order dated 14.12.2020 passed in MHRC Complaint Case No. 132 of 2019 as expeditiously as possible and for early payment of pensions to the complainant and other retired teachers.

Having been aggrieved, the petitioner approached this Court by filing the present writ petition challenging the said orders.

[7] Mr. Th. Vashum, learned Government Advocate appearing for the petitioner raised only 2 (two) points in assailing the said 2 (two) orders. It has been submitted by the learned Government Advocate that under Regulation 9 (viii) of the National Human Rights Commission (Procedure) Regulations, 1994, it is provided that the Commission may dismiss in limini complaints which raised issues related to service matter. In appendix-I annexed to the said MHRC (Procedure) Regulation, 1994, service matter is defined under Code No. 1200 which included non-payment of pension/compensation.

The learned Government Advocate strenuously submitted that since regulation 9 (viii) mandates that the commission should dismiss in limini complaints which raised issues related to service matter, the Manipur Human Rights Commission has no authority and jurisdiction to entertain the complaints filed by

the respondents No. 1 & 2, which substantially raised issue related to service matter, i.e., non-payment of pension. The learned Government Advocate submitted that on this ground alone, the impugned orders are liable to be quashed and set aside, since the Manipur Human Rights Commission has no jurisdiction to entertain such complaints and to pass such orders giving directions to the authorities of the State Government to consider the case of the respondents No. 1 & 2 and other members of their association for payment of their pensionary benefits.

[8] The second ground raised by the learned Government Advocate is that under section 36 (2) of the Protection of Human Rights Act, 1993, it is provided that the State commission shall not inquire into any matter after the expiry of 1 (one) year from the date on which the Act constituting violation of Human Rights is alleged to have been committed. It has been submitted that in the present case, the respondents No. 1 & 2 and the other members of their association have retired long time back before filing the said complaint cases, in any case more than 1 (one) year before the date of filing the said complaint cases and as such, the Human Rights Commission ought not to have entertained the said complaint cases in view of the embargo provided under section 36 (2) of the Protection of Human Rights Act, 1993. The learned Government Advocate accordingly submitted that the impugned orders are liable to be quashed and set aside. In support of his contention the learned Government Advocate cited the judgment of the Hon'ble Apex Court in the case of **"N.C. Dhoundial vs. Union of India and Ors."** reported in 2004 SCC 579 wherein, it has been held as under:-

"14. *We cannot endorse the view of the Commission. The Commission which is a "unique expert body" is, no doubt, entrusted with a very important function of protecting human rights, but, it is needless to point out that the Commission has no unlimited jurisdiction nor does it exercise plenary powers in derogation of the statutory limitations. The Commission, which is the creature of statute, is bound by its provisions. Its duties and functions are defined and circumscribed by the Act. Of course, as any other statutory functionary, it undoubtedly has incidental*

or ancillary powers to effectively exercise its jurisdiction in respect of the powers confided to it but the Commission should necessarily act within the parameters prescribed by the Act creating it and the confines of jurisdiction vested in it by the Act. The Commission is one of the fora which can redress the grievances arising out of the violations of human rights. Even if it is not in a position to take up the enquiry and to afford redressal on account of certain statutory fetters or handicaps, the aggrieved persons are not without other remedies. The assumption underlying the observation in the concluding passage extracted above proceeds on an incorrect premise that the person wronged by violation of human rights would be left without remedy if the Commission does not take up the matter.”

“15. Now let us look at Section 36 of the Protection of Human Rights Act, which reads thus:

“36. Matters not subject to jurisdiction of the Commission. – (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other commission duly constituted under any law for the time being in force.

(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.”

Section 36(2) of the Act thus places an embargo against the Commission enquiring into any matter after expiry of one year from the date of the alleged act violative of human rights. The caption or the marginal heading to the section indicates that it is a jurisdictional bar. Periods of limitation, though basically procedural in nature, can also operate as fetters on jurisdiction in certain situations. If an authority is needed for this proposition the observations of this Court in *S.S. Gadgil v. Lal & Co.* may be recalled. Construing Section 34 of the Income Tax Act, 1922 the Court observed thus: (AIR p. 176, para 10)

“10. Again the period prescribed by Section 34 for assessment is not a period of limitation. The section in terms imposes a fetter upon the power of the Income Tax Officer to bring to tax escaped income.”

The language employed in the marginal heading is another indicator that it is a jurisdictional limitation. It is a settled rule of interpretation that the section heading or marginal note can be relied upon to clear any doubt or ambiguity in the interpretation of the provision and to discern the legislative intent (*vide Uttam Das Chela Sunder Das v. Shiromani Gurdwara Parbandhak Committee and Bhinka v. Charan Singh*). ”

“16. In fact, Section 36(2) does not mince the words and the language used is clear and categorical. The marginal note to the section is being referred to only to consider whether the bar created by Section 36(2) has a bearing on the power or jurisdiction of the Commission.”

[9] Mr. M. Ibohal, learned counsel appearing for the respondents No. 1 & 2 submitted that the respondents No. 1 & 2 and the other members of the association represented by them are all retired teachers of the Government Aided Schools and that they are entitled to retiral and other pensionary benefits in terms of the relevant Rules made by the State Government. The learned counsel further submitted that despite the repeated demand and the request made by the respondents No. 1 & 2 and other members of their ilk to the Government for giving their retiral and pensionary benefits as provided under the relevant Rules, the State Government remain a mute spectator and the in-action on the part of the State Government has deprived the means of livelihood of the retired teachers and having no option, the respondents No. 1 & 2 and other of their ilk approached Manipur Human Rights Commission for redressing their grievances. The learned counsel further submitted that as the respondents No. 1 & 2 and other members of their ilk are entitled to retiral and pensionary benefits as provided under the relevant rules, they may be given liberty to approach the Government by submitting a fresh representation for releasing their pensionary and other retiral benefits.

[10] I have heard at length the submission advanced by the learned counsel appearing for the parties and also examined all the materials available on record. On examination of the provisions under Regulation 9 of the Nation Human Rights Commission (Procedure) Regulation, 1994 as well as the provision under section 36 of Protection of Human Rights Act 1993, this Court find sufficient force and merit in the submission advanced by the learned Government Advocate and this Court comes to the conclusion that the Manipur Human Rights Commission has no jurisdiction to entertain any complaint which raised issues related to service matter. In that view of the matter, this Court has no option but to quash and set aside the 2 (two) impugned proceedings/orders of the Manipur Human Rights Commission in MHRC Complaint Case No. 132 of 2019 and MHRC Complaint Case No. 57 of

2022. Accordingly, the said two impugned proceedings/order are hereby quashed and set aside.

Needless to mention that this Court has not decided any issue regarding the entitlement of any pensionary or retiral benefits by the respondents No. 1 & 2 and others of their ilk and this order will not bar them from approaching the Government claiming for payment of their pensionary and other retiral benefits in accordance with law.

With the aforesaid observations and directions, the present writ petition is disposed of.

There shall be no order as to costs.

JUDGE

FR/NFR

Sapana