

IN THE HIGH COURT OF MANIPUR AT IMPHAL

WP(C)No.333 of 2021

1. Shri Yumnam Gandhar Singh, aged about 60 years, S/o (Late) Y. Mangi Singh, resident of Thiyam Leishangkhong Makha Leikai, PO & PS Wangoi, District Imphal West, Manipur.
2. Shri Oinam Jibon Singh, aged about 60 years, S/o (Late) O. Achou Singh, resident of Brahmaputra Bheigyapati Leikai, P.O. and P.S. Singjamei, District Imphal West, Manipur.
3. Md. Manou, aged about 60 years, S/o (Late) Md. Nahatomba, resident of Irong Chesaba Mayai Leikai, P.O. and P.S. Mayang Imphal, District Imphal West, Manipur.
4. Smt. Asem Ibetombi Devi, aged about 60 years, W/o. Laishram Manglem Singh, P.O. Lamlong and P.S. Lamlai, District Imphal East, Manipur.
5. Elangbam Nawang Singh, aged about 60 years, S/o (Late) E. Tomal Singh, resident of Sekmaichin Mayai Leikai, P.O. Mayang Imphal and P.S. Hiyangbam, District Kakching Manipur.
6. Yaikhom Kameshwor Singh, aged about 60 years, S/o (Late) Y. Chandra Singh, resident of Wabagai Tera Pishak, P.O. Kakching and P.S. Hiyanglam, District Kakching, Manipur.

.....Petitioner

– Versus –

1. The State of Manipur represented by the Commissioner/Secretary (PHED), Government of Manipur, P.O. & P.S. Imphal, District Imphal West, Manipur, (Secretariat Block)-795001.
2. The Chief Engineer, Public Health Engineering Department (P.H.E.D.), Government of Manipur, P.O. Imphal, P.S. City Police, Imphal West District, Manipur, P.W.D. Complex at Khuyathong, Manipur-795001.

3. The Principal/Special Secretary (Finance), Government of Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur (Secretariat Block)-795001.
4. The Joint Secretary (Pension Cell), Government of Manipur, P.O. and P.S. Imphal, Imphal West District, Manipur (Secretariat Block)-795001.
5. The Principal Accountant General (A&E), Manipur, Imphal, at Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

.... Respondents

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners : Mr. CH. Robinchandra, Advocate
For the Respondents : Mr. I. Somorjit, Adv & Mrs. Ch. Sundari, GA
Date of reserved. : 07.05.2024.
Date of order : 10.05.2024

J U D G E M E N T & O R D E R
(CAV)

[1] Heard Mr. Ch. Robinchandra, learned counsel appearing for the petitioners, Mr. I. Somorjit, learned counsel for respondent No.5 and Mrs. Ch. Sundari, learned GA for the State respondents.

[2] By the present writ petition, the petitioners are praying inter-alia for issuance of directions to the respondents to grant/pay pension and other retirement benefits for their services under the "Terminal Benefits for Work-charged Staff of P.W.D/I.F.C.D/ P.H.E.D/M.I and Electricity, Manipur Rules, 1978 and its Second Amendment Rules, 2020.

[3] Brief facts of the case are that the petitioners were working as Muster Roll Workers under the Department of P.H.E., Government of Manipur and later on converted to Work Charged employees. During their service period, the petitioner No.1 was working as Work-charged Assistant Engine Operator (A.E.O) of Imphal West P.H.E. Division, the petitioner No.2 was working as work-charge Engine Operator (E.O) of Water Supply Maintenance No. II, the petitioner No. 3 was working as work-charged Assistant Engine Operator (A.E.O) of the Imphal West P.H.E. Division and the petitioner No.4 was working as Work Charged Junior Bill Clerk (J.B.C) of Thoubal P.H.E. Division, the petitioner No.5 was working as Technical Jugali of Kakching P.H.E. Division and the petitioner No.6 was working as Choukidar of Thoubal P.H.E. Division, P.H.E. Department Government of Manipur. The petitioners had rendered 22(twenty two) years of service till they retirement from the service. The petitioner Nos.1,2,3,5 & 6 retired from the service w.e.f. 28.02.2021 and the petitioner No.4 retired from the service w.e.f. 31.01.2021.

[4] It is the case of the petitioners that while they were in service, the Government of Manipur framed a policy dated 16.04.1997 regarding the service condition of Casual/Muster Roll Workers and Work-Charged Staffs of the Engineering Departments. As per the policy, those Casual/Muster Roll Workers who have completed 10(ten) years' service as on 16.04.1997 would be converted into Work-Charged establishment and those Work Charged

employees who have completed 10(ten) years as on 16.04.1997 would be converted into regular employees.

[5] In pursuance of the Government Policy published on 16.04.1997 the Department of P.H.E., Government of Manipur converted 888 Muster Roll Workers who had completed 10(ten) years continuous service in the Muster Roll Service into Work-Charged Establishment vide the conversion order dated 11.01.1999. In the said conversion of 888 muster Roll Workers into Work-Charged establishment the name of the petitioner No.1 appeared at Sl. No.171, Petitioner No.2 appeared at Sl. No.798, petitioner No.3 appeared at Sl. No.174, Petitioner No.4 appeared at Sl. No.824, Petitioner No.5 appeared at Sl. No.290 and Petitioner No.6 appeared at Sl. No.23.

[6] It is stated that before the retirement of the petitioners, the Government of Manipur, Finance Department (PIC) issued a Notification dated 04.01.2021 and the same was published in the Manipur Extra-Ordinary Gazette on 07.01.2021 publishing the second Amendment of the Terminal Benefits Rules called the Terminal Benefits for Work Charged Staffs of P.W.D./I.F.C.D./ P.H.E.D./M.I. and Electricity (Second Amendment) Rules, 2020. By this Amendment, it is entitled for pension and retirement benefits to a permanent Work Charged employee who retired on attaining the age of 55 years with qualifying service of not less than 20(twenty) years. It is stated that petitioners' services were completed 22 years at the time when they retired, they requested the authorities for grant of pension under the Terminal Benefits (Second

Amendment) Rules, 2020. However, the authorities informed that their Work Charged services are not permanent and due to unconfirmed service, pension is not entitled under this Second Amendment Rules, 2020. Being aggrieved, the petitioners jointly fled this writ petition.

[7] In the counter affidavit filed by respondent Nos.1 & 2, it is stated that the petitioners are Casual Workers/Work Charged and they have not been converted into permanent Work Charge establishment. There is no vacancy to convert the writ petitioners into permanent work charge establishment in P.H.E.D. Department and the pension under the Terminal benefit rules (2nd amendment) is applicable only to confirm work charged employees. Therefore, the petitioners are not eligible for pension under the Terminal Benefit rules. It is further stated that the DP's Circular dated 16.04.1997 regarding regularization and service condition of work charges/Casual/Master Roll employees of Engineering Department were withdrawn vide letter dated 26.02.2002 and present writ petitioners did not challenge the letter dated 26.02.2002 before any appropriate forum till date.

[8] It is further contended in the counter affidavit of respondent Nos. 1 & 2 that terminal benefit rules issued by Government of Manipur states that the pensionary benefits are for permanent work charged employees only. Till date the writ petitioners are not holding permanent work charged posts in P.H.E.D., Manipur. As such, they cannot be given pensionary benefits under the terminal benefits rules. It is stated though the terminal benefits rules (2nd Amendment)

were issued by Government of Manipur before the retirement of the petitioners, there is no permanent work charged posts in P.H.E.D., Manipur and a DPC has to be conducted for confirmation after creation of permanent work charge post. The terminal benefits rules (2nd Amendment) are not applicable in case of the writ petitioners who are already retired before confirmation as such, no retrospective confirmation is allowed by the Office Memorandum of the Government.

[9] In the counter affidavit of the respondent No.5, it is stated that the office of the Accountant General, Manipur has not received any documents with respect to the preparation of pension papers for the petitioners and as such no action is pending with it. Necessary steps will be taken up after receipt of requisite papers from the administrative department.

[10] Mr. Ch. Robinchandra, learned counsel for the petitioners submits that the present case is covered by the recent judgment passed by this Court in the case of **Laishram Chaobhal Singh v. State of Manipur & Ors. [WP(C) No. 17 of 2023 & Judgment dated 30.04.2024]** wherein it has been held that non-permanent work charged employee who has worked more than 20 years, is entitled to terminal benefits including family pension. It is prayed that similar direction be passed in the present case where the petitioners who are work charged employees and having worked for more than 22 years are also entitled the same service benefit.

[11] Mrs. Ch. Sundari, learned GA has pointed out that the terminal benefit under the above-mentioned Rules will be applicable to the permanent work charged employee and since the service of the petitioners have not been confirmed and made permanent, the terminal benefit will not be entitled to them. It is prayed that the writ petition be dismissed. Mr. I. Somorjit, learned counsel for the respondent No.5 submits that the office of Principal Accountant General has no role till this moment, unless necessary documents are submitted by the administrative department for preparation of pension authority for the petitioners.

[12] In the present case, it is an admitted fact that the petitioners are work charged employees in various divisions of Public Health Engineering Department, Manipur and they have worked for more than 22 years of service before their retirement on attaining the age of superannuation. In the recent case of **Laishram Chaobhal Singh (supra)**, this Court discussed earlier judgments passed by the then Gauhati High Court (Imphal Bench, now High Court of Manipur) and this Court. In those judgments, it was held that the benefits under Rules 6A & 6B of "Terminal Benefits for Work-Charged Staff of PWD/IFCD/PHED/MI and Electricity, Manipur Rules, 1978 (as amended)" will be applicable to both permanent and non-permanent work charged employees for availing terminal benefits including the family pension. Similar relief has been granted by this Court in the case of **Chingangbam Pateshori Devi v. State of Manipur & Ors.** [Judgment dated 05.02.2024 in WP(C) No. 951 of 2022]: **MANU/MN/0013/2024.**

[13] In view of the above decisions of this Court, it is held the terminal benefits under the aforementioned Rules will be applicable to the petitioners who were work charged employees and worked 22 years of service before retirement. State respondents are directed to prepare necessary papers for the petitioners and forward the same to the office of Principal Accountant General within a period of 2 months from the date of receipt of a copy of this order. Respondent No. 5 shall issue pension authority for the petitioners within a period of one months from the date of receipt of necessary papers from the State Government. The petitioners shall furnish any detail and documents, if asked by the administrative department in connection with preparation of pension papers.

[14] Writ petition is allowed and disposed of with the above directions. No cost.

[15] Send a copy of this order to the administrative department and the respondent No.5 for information and necessary compliance.

JUDGE

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