

Item No.15

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

WP(C)No.319 of 2022

1. Ningthoujam Ongbi Radhe Devi, aged about 63 years, W/o (late) N. Gopal Singh of Heirok Part-III, PO & PS Thoubal, Thoubal District, Manipur, Pin No.795148.
2. Ningthoujam Brojen Singh, aged about 39 years, S/o (late) N. Gopal Singh of Heirok Part-III, PO & PS Thoubal, Thoubal District, Manipur, Pin. No. 795149.

...Petitioners

- Versus -

1. The State of Manipur represented by the Commissioner/Secretary(Horticulture & Soil Conservation), Government of Manipur, Secretariat Building, PO & PS Imphal, Imphal West District, Manipur, Pin No-795001.
2. The Director, Horticulture & Soil Conservation, Manipur, Sanjenthong, PO Imphal, P.S. Porompat, Imphal East District, Manipur, Pin No. 795001.
3. The District Officer, Horticulture & Soil Conservation, Tamenglong, PO & PS Tamenglong, Tamenglong District, Manipur, Pin No-795141.

...Respondents

BEFORE
HON'BLE JUSTICE MR. JUSTICE A. GUNESHWAR SHARMA
O R D E R
(Oral)

26.02.2024.

[1] Heard Mr. TH. Mahira learned counsel appearing for the petitioners and Mr. Th. Sukumar learned G.A for all the respondents.

[2] The petitioners, herein approached this Court for direction to give service as well as pensionary benefits to the petitioners in terms of the compromise order dated 09.10.2018 passed by a Division Bench of this Court in Mat. Appeal Case No. 3 of 2017 wherein the petitioners herein agreed to share the pensionary benefits of late N. Gopal Singh. It is stated that the petitioners are yet to get any monetary payment in terms of the order dated 09.10.2018.

[3] Brief facts of the case is that Mr. N. Gopal Singh was servicing as Grade-IV employee in the Directorate of Horticulture & Soil Conservation Government of Manipur and he expired on 06.06.2012 while posted at Thoubal District, Manipur. Accordingly, the service of N. Gopal Singh was terminated vide order dated 06.07.2012 with effect from the date of expiry. Since there was a dispute between the two wives of late N. Gopal Singh, the pensionary benefits could not be released. The petitioner No. 1 herein, Mrs. Radhe Devi (2nd wife of the deceased N. Gopal Singh) made a representation dated 27.07.2013 to the Director of Horticulture &

Soil Conservation, Government of Manipur not to release the pensionary benefits of late Mr. N.Gopal Singh without her consent. Thereafter, the petitioner No. 1 herein Mrs. Radhe Devi filed a Mat. (Decl.), No. 16 of 2014/2 of 2015/ 8 of 2016 before the Family Court Thoubal, Manipur for declaring her as legally married wife of Mr. N. Gopal Singh.

[4] Vide Judgment & order dated 26.05.2017, the learned Family Court, Thoubal declared that petitioner No. 1, Mrs. Radhe Devi as the legally married wife of the deceased Mr. N. Gopal Singh and entitled to service benefits. The said order was challenged by Mrs. N.Jati (first wife) before this Court by way of Mat. Appeal No. 3 of 2017. During the pendency of the appeal before this Court, Mrs. N. Jati Devi expired and her son Mr. N. Brojen Singh was brought on record (Petitioner No. 2 herein). In the mediation proceeding, a compromise was arrived between the parties and it was agreed that the petitioner No. 2, Mr. N. Brojen Singh would be entitled to receive a sum of Rs. 4 lakhs and petitioner No. 1 Mrs. Radhe Devi would be entitled to pensionary and other service benefits. On the basis of settled mediation, this Court disposed of the matter vide order dated 09.10.2018 and the relevant part is reproduce herein.

“The terms and conditions of agreement arrived at between the parties are reproduced as follows:-

TERMS AND CONDITIONS:

1. *That, the son of the petitioner and his representatives shall have no objection in declaring that Smt. Ningthoujam (O) Radhe Devi is the legally married wife of late N. Gopal Singh who was serving as Grade-IV employee in the office of the Director, Horticulture & Soil Conservation, Govt. of Manipur.*

2. *It is agreed that Shri. N. Brojen Singh will be entitled to receive an amount of Rs. 4,00,000/- (Rupees four lakhs) only, from the service benefits including arrear pension amount left behind by late N. Gopal Singh calculated till 30.09.2018 and the remaining amount shall be receivable by Smt. Ningthoujam (O) Radhe Devi.*
3. *It is also agreed that Smt. Ningthoujam (O) Radhe Devi shall be entitled to the pensionary benefits left behind by late N. Gopal Singh thereafter.*
4. *In order to avoid any issue, it is agreed by both the parties that the receivable amount of Rs. 4,00,000/- by Shri N. Brojen Singh may be deducted at source at the time of receiving service benefits including arrear pension from the Proforma respondents, i.e.(i) The Director, Horticulture & Soil Conservation, Govt. of Manipur and (ii) the District Officer, Horticulture & and Soil Conservation Tamenglong, Govt. of Manipur.*
5. *Further, it is agreed that both the parties shall request the Hon'ble High Court to pass an order directing the Proforma respondents to pay Rs. 4,00,000/- (Rupees four lakhs) only to Shri N. Brojen Singh as stated above."*

In terms of the above agreement arrived at between the parties on mediation by the Member Secretary, MSLSA held on 19.09.2018, the present Matrimonial Appeal stands disposed of.

Since, the parties have arrive at an amicable settlement, the respondent authorities will immediately start the process for payment of the benefits in terms of the aforesaid settlement. The process shall be completed within a period of 3(three) months form today."

[5] Mr. TH. Mahira learned counsel for the petitioner submits that in spite of specific direction of this Court, the pensionary benefits are not released to the petitioners purportedly in terms of the letter dated 07.11.2020 (Annexure-A/5) written by the Under Secretary (Horticulture and Soil Conservation Manipur) to the Director (Horticulture and Soil Conservation Manipur) to file a review or appeal against the order dated 09.10.2018 passed by this Court.

[6] It is stated that no application has been filed by the State respondents for reviewing or challenging the order dated 09.10.2018 and the pensionary benefits of the petitioners have been wrongly withheld by the State respondents.

[7] State respondents have filed counter affidavit stating that the State was not a party in the mediation proceeding between the petitioners and the terms and conditions arrived at mediation as recorded by this Court on 09.10.2018 are not binding to the State respondents.

[8] Mr. Th. Sukumar learned G.A further seeks some time for confirming whether any review or appeal is pending against the order dated 09.10.2018.

[9] Mr. TH. Mahira learned counsel for the petitioners submits that in the Mat. Suit pending before the Family Court, State respondents Nos. 2&3 were the defendants and no appeal was preferred by the State respondents against the decree dated 26.05.2017 passed by the learned Family Court, Thoubal declaring the petitioner No. 1 as the legal wife of late Mr. N. Gopal Singh and entitled to service benefits of her deceased husband.

[10] It may be noted that the Division Bench of this Court in order dated 09.10.2018 only modified the decree with respect to the entitlement of the pensionary benefits between the LRs of the deceased Mr. N. Gopal Singh and the findings given by the learned Family Court that Mrs. N. Radhe Devi was legally married wife of deceased Gopal Sing was not

disturbed. The State respondents did not challenge the finding of trial Court and hence cannot question the consent order dated 09.10.2018 recorded by this Court.

[11] This Court has considered the submissions made by the learned counsel appearing for the parties and materials available on record.

[12] Vide order dated 26.05.2017, the learned Family Court Thoubal declared the petitioner No.1 as legally married wife and entitled to the pensionary and other service benefits of late Mr. Gopal Singh. By the decree, the first wife, Mrs. Jati Devi was not granted any relief towards the pensionary benefits of Mr. N. Gopal Singh.

[13] The first wife preferred appeal before this Court and there was a compromise between the first wife through her LRs Mr. N. Brojen Singh (petitioner No. 2 herein) and second wife Mrs. Radhe Devi (Petitioner No.1 herein) regarding the sharing of the pensionary benefits without altering the findings given by the learned Family Court. In terms of the decree by the learned Family Court, the petitioner No. 1 is entitled to the pensionary and other service benefits of late N. Gopal Singh and in terms of the compromise vide order dated 09.10.2018, petitioner No. 2 is entitled to a sum of Rs. 4 lakhs. This compromise does not alter the findings of the Family Court on merit.

[14] Since the State respondents who were the defendants, have not challenged the findings of the learned Family Court Thoubal, they

cannot question the compromise arrived between the petitioners with respect to the sharing of the pensionary benefits at this stage.

[15] In the counter affidavit dated 11.01.2024 filed by the State respondents, pendency or status of any review or appeal against the order dated 09.10.2018 passed by this Court is not indicated. Since the matter is pending from 2022 onwards, giving further time as requested by Government Advocate is not warranted. The pendency of such petition could have been mentioned in the counter affidavit dated 11.01.2024.

[16] Accordingly, the respondents are directed to complete the process of pensionary and other service benefits of late Mr. N. Gopal Singh in favour of the petitioners in terms of the order dated 09.10.2018 passed by this Court and forward the necessary documents to the office of Principal Accountant General, Manipur, within a period of 3(three) months from the date of receipt of a copy of this order.

JUDGE

John Kom