

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

W.P. (C) No. 719 of 2020

Shri Khundrakpam Mohon Singh, aged about 53 years,
S/o (L) Naran Singh, a resident of Pangantabi Village, P.O.
Kakching, P.S. Wangoo, Kakching District, Manipur-795103.

... Petitioner

-Versus-

- 1.** The State of Manipur, represent by the Commissioner, Arts & Culture, Government of Manipur, New Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
- 2.** The Commissioner (D/P), Government of Manipur, New Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
- 3.** The Director, Arts & Culture, Government of Manipur, near BOAT, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

... Respondents

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

For the Petitioner	::	Shri N. Ibotombi, Sr. Advocate & Mrs. N. Savitri, Advocate
For the respondents	::	Mrs. L. Monomala, GA
Date of Hearing	::	04-12-2023
Date of Judgment & Order	::	11-01-2024

JUDGMENT & ORDER

[1] The present writ petition had been filed with the prayer for quashing the impugned order dated 01-12-2020 issued by the Commissioner (Arts & Culture), Government of Manipur, rejecting the

representation of the petitioner for appointing him as Junior Lecturer (Vocal) in Government Music College and also for issuing a writ of Mandamus directing the respondents to appoint/ absorb the petitioner as Junior Lecturer (Vocal) in the Government Music College now renamed as Shree Shree Balmukunda Dev Government Music College, Imphal.

[2] The facts of the present case, in a nutshell, are that the petitioner was appointed as Junior Lecturer (Vocal) on contract basis initially for a period of six months in the Government Music College, Imphal. Thereafter, the period of his contract service was extended from time to time by the Government and by the last extension order dated 18-09-1998, the period of contract appointment of the petitioner was extended upto 31-03-1999. The Government Music College was subsequently renamed as Shree Shree Bal Mukunda Dev Government Music College, Imphal and the said College is under the control of the Secretariat, Arts and Culture, Government of Manipur.

[3] The All Manipur Government Arts & Culture Department Casual/ Contract Employees and Workers Union and two other persons filed a writ petition being Civil Rule No.148 of 1998 in the Gauhati High Court, Imphal Bench, with the prayer for issuing a direction to the authorities to regularize their Contract/ Casual service either by preparing a scheme on rational basis or after creation of post. The said writ petition was allowed by the Gauhati High Court, Imphal Bench, vide its judgment and order dated

07-12-1998 passed in Civil Rule No. 148 of 1998 and the operative portion of the said judgment and order are as under:-

“7. Be that as it may, considering the existing facts and circumstances of this case as well as applying the established principles of law laid down by the Apex Court in the matter, I direct the respondents to prepare a scheme on rational basis taking into account of the length of services of these casual/ contract/ work charged employees rendering their service under the respondents with the vacancy position of the related post/ posts and also to make proper scrutiny about their eligibility for absorption to their respective posts and the same shall be done within a period of 3(three) months from the date of receipt of this judgment and order. It is made clear that the benefit of the past services of those employees/ workers shall be taken into account for the purpose of their retirement benefits and other pensionary benefits and for the purpose of absorption also. It is also further made clear that those employees/ workers of the Department concerned who are equally situated with those employees/ workers involved in the present case whose case shall also be considered and they shall be treated equally by the respondents. Interim order passed by this court on 10-3-98 is merged with this judgment and order.”

The aforesaid judgement and order was challenged by the Government and the matter reached upto the Hon'ble Supreme Court of India, however, the Hon'ble Supreme Court did not interfere with the judgment and order passed by the Gauhati High Court, Imphal Bench.

[4] The present petitioner also filed a writ petition being WP(C) No. 267 of 1999 before the Gauhati High Court, Imphal Bench, with the prayer for directing the authorities to absorb his contact service in the regular establishment in the light of the aforesaid judgment and order dated 07-12-1998 passed by the Gauhati High Court, Imphal Bench in Civil Rule

No. 148 of 1998. The said writ petition was disposed of by the Gauhati High Court, Imphal Bench, by passing an order dated 30-03-1999 to the effect that as the matter was covered by its earlier judgment and order dated 07-12-1998 passed in CR No. 148 of 1998, the said writ petition also stand disposed of with the direction as given in para. 7 of the earlier judgment and order dated 07-12-1998 passed in CR No. 148 of 1998. In the said order, it was also made clear that the petitioner shall not be thrown out from service in the meantime.

[5] When the contract service of the petitioner was not extended after 31-03-1999 despite the repeated requests and proposals made by the Principal of Government Music College, Imphal and the Director, Arts and Culture, Manipur for extension of the contract service of the petitioner, the petitioner filed another writ petition being WP(C) No. 960 of 1999 in the Gauhati High Court, Imphal Bench, with the prayer for issuing a direction to the authorities to issue necessary orders for extension of his contract service. The said writ petition was disposed of by the Gauhati High Court, Imphal Bench, by an order dated 28-07-1999 wherein the authorities were directed to issue necessary orders for extension of the service of the petitioner at the earliest.

The aforesaid orders dated 30-03-1999 passed in WP(C) No. 267 of 1999 and order dated 28-07-1999 passed in WP(C) No. 960 of 1999, both filed by the petitioner, were challenged by the Government by filing WA No. 68 of 1999 and Review Petn. No. 42 of 1999 respectively, however,

both the said writ appeal as well as the review petition were dismissed by the Gauhati High Court, Imphal Bench by an order dated 10-06-2004 passed in WA No. 68 of 1999 and order dated 12-11-2009 passed in Rev. Petn. No. 42 of 1999. Thereafter, the matter has attained its finality.

[6] In compliance with the direction given by the Gauhati High Court in its judgement and order dated 07-12-1998 passed in CR No. 148 of 1998 and the order passed by the Hon'ble Apex Court, the State Government framed a scheme called the **Scheme for the absorption of contract/ casual employees on regular basis in the Arts & Culture Department, Manipur** in the year 2024 (hereinafter referred to as the “**Scheme**”, for short). The purpose of the scheme as laid down in para. 2 of the said scheme is as under:-

“2. Purpose of the Scheme:-

(1) The Scheme has been framed as per judgment and ORDER (ORAL) passed by the Guwahati High Court, Imphal Bench on 07-12-98 in C.R. No. 148 of 1998, operative part of which is reproduced below:-

“Be that as it may, considering the existing facts and circumstances of this case as well as applying the established principles of law laid down by the Apex Court in the matter, I direct the respondents to prepare a scheme on rational basis taking into account of the length of services of these casual/ contract/ Work charged employees rendering their services under the respondent with the vacancy position of the related posts and also to make proper scrutiny about their eligibility for absorption to their respective posts and the same shall be done within a period of 3(three) months from the date of receipt of this judgment and order. It is made clear that the benefit of the past services of those employees/ workers shall be taken into account for the purpose of their retirement benefits and other pensionary benefits and for the purpose of

absorption also. It is also further made clear that those employees/ workers of the Department concerned who are equally situated with those employees/ workers involved in the present case whose cases shall also be considered and they shall be treated equally by the respondents.”

The application of the scheme as laid down in para. 4 of the scheme is as under:-

“4. Application:

The new scheme shall be applicable to the petitioner in the said C.R. and also to those Casual/ Contract employees who are equally situated and are at present in the various offices of the Art & Culture Department, Govt. of Manipur which consists of the following offices:-

- (a) Office of the Directorate of Art & Culture, Manipur.*
- (b) Office of the State Archaeology, Manipur.*
- (c) Office of the Manipur State Archives, Manipur.*
- (d) Office of the Central Library (including District Libraries), Manipur.*
- (e) Office of the Manipur State Museum, Imphal.*
- (f) Office of the Shri Balmukunda Dev Music College (Govt. Music College).***
- (g) Office of the Govt. Dance College.*
- (h) Office of the I.N.A. Martyrs’ Memorial Museum, Moirang.”*

[7] In paras. 5 and 7 of the scheme, a total of 55 casual/ contract employees in various offices under the Arts & Culture Department are shown and among those 55 Casual/ Contract employees, the name of the petitioner is also included.

In para. 7 of the said scheme, it is, inter alia, laid down as under:-

“7. Classification on the basis of length of services:-

The above 55 (fifty-five) Casual/ Contract Employees of the Art & Culture Department, Manipur (for whom the scheme is prepared

for absorption in the sanctioned posts regularly) have been classified as below according to their length of services on Casual Contract basis:-“

In para. 9 of the scheme, the number of available vacancies and number of posts to be created, altogether numbering 55 post including two posts of Junior Lecturer (Vocal), are earmarked/ shown for the purpose of achieving the objective of the scheme.

[8] After framing of the said scheme, the Secretary (Arts & Culture), Government of Manipur issued an order dated 09-02-2015 thereby regularizing the casual/ contract service of 43 staffs working in various units of the Directorate of Arts & Culture with effect from the date shown against their name and subject to the condition that actual payment of salary shall take place with effect from 01-04-2014. Among the said 43 regularized staff, the name of the petitioner is not included. Feeling aggrieved, the petitioner submitted a representation dated 28-08-2019 to the Commissioner, Arts & Culture, Government of Manipur requesting for regularizing his contractual service as Junior Lecturer (Vocal) in the Government Music College, Imphal. During the process of considering the representation submitted by the petitioner, the Principal, Shree Shree Bal Mukunda Dev Government Music College Imphal wrote a letter dated 07-11-2019 to the Director, Arts & Culture, submitting the statement of occupied and vacant post in the said College as on 01-03-2019. In the said statement, two posts of Junior Lecturer (Vocal) are shown to be vacant. Subsequently, the Director, Arts & Culture, Manipur wrote a letter dated 14-11-2019 to the Commissioner (Arts & Culture), Government of Manipur

stating, inter alia, that two vacant posts of Junior Lecturer (Vocal) are available in the said Music College and that the petitioner was qualified for the post of Junior Lecturer (Vocal) as per the old R.R. of 1984 and not eligible as per the new R.R. of 1998 and also requesting for considering the case of the petitioner for appropriate decision to avoid any further litigation.

[9] Instead of considering the case of the petitioner in terms of the direction given by the Gauhati High Court and in terms of the scheme framed by the Government, the Commissioner (Arts & Culture), Government of Manipur, issued the impugned order dated 01-12-2020 thereby rejecting the representation submitted by the petitioner as being devoid of merit. The ground for rejecting the representation of the petitioner as given in the said impugned order are as under:-

“8. Whereas, it is observed that Kh. Mohon’s contractual service was extended upto 21.03.1999 and framing of Scheme of regularization of casual/ contract employees was in 2004.”

“9. As it is clear that framing of the Scheme of regularization of casual/ contract employees was only for those who were in service till 2004, the representation dated 28.08.2019 filed by Shri Khundrakpam Mohon Singh is considered and stands rejected being devoid of merit.”

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

[10] The stand taken by the respondents in their affidavit-in-opposition is that the term of contract appointment of the petitioner was extended upto 31-03-1999 and after completion of the said period, the period of contract service of the petitioner was not extended by the

Government and his service was also not utilised. It has also been submitted that the petitioner was eligible for appointment to the post of Junior Lecturer (Vocal) as per the old R.R. of 1984 but he is not eligible for the same post as per the new R.R. of 1998 and as such, his case was not considered due to his ineligibility.

[11] Mr. N. Ibotombi, learned senior counsel appearing for the petitioner submitted that in the writ appeal being WA No. 68 of 1999 filed by the State Government against the order dated 30-03-1999 passed in WP(C) No. 267 of 1999, an interim stay order was passed and in view of the said interim stay order, the period of contract service of the petitioner was not extended by the Government. However, the said writ appeal was subsequently closed by an order dated 10-06-2004 and the earlier interim stay order was vacated. The learned senior counsel further submitted that the review petition filed by the State Government against the order dated 28-07-1999 passed in WP(C) No. 960 of 1999 was also dismissed by an order dated 12-11-2009. The learned senior counsel strenuously submitted that since the writ appeal as well as the review petition have been dismissed by the Gauhati High Court and any interim stay order passed therein having been vacated, the direction given by the Gauhati High Court not to throw out the petitioner from service as well as the direction for issuing necessary orders for extension of the service of the petitioner has attained finality and the State Government is duty bound to implement the same. It has also been submitted that the respondents cannot take the plea that the contract service of the

petitioner was not extended and the respondents refusal to consider the case of the petitioner for regularization of his service in terms of the direction given by the High Court and the scheme framed by the Government only on this ground is very arbitrary and unreasonable and is in direct contravention of the direction given by the High Court and the provisions of the scheme framed by the State Government.

[12] The learned senior counsel further submitted that one Shri L. Nobin Singh, who was working as Junior Lecturer in Music College on contract basis and who is similarly situated with the petitioner, in that the said Shri L. Nobin Singh is eligible under the old R.R. of 1984 and not eligible under the new R.R. of 1998, had been given regular appointment by the order dated 09-02-2015 issued by the Secretary (Arts & Culture), Government of Manipur. In the said order, the name of Shri L. Nobin Singh appears at Sl. No. 23. The learned senior counsel strenuously submitted that the petitioner has not been treated equally with his equal and the respondents refusal to consider the case of the petitioner for regularization of his service on the ground that he is not eligible under the new R.R. is very much discriminatory and in violation of the equality clause enshrined under Article 14 of the Constitution of India. The learned senior counsel also submitted that the State Government cannot blow hot and cold at the same time.

[13] I have heard the submissions of Mr. N. Ibotombi, learned senior counsel assisted by Mrs. N. Savitri, learned counsel appearing for the petitioner and Mrs. L. Monomala, learned GA appearing for the

respondents at length and also carefully examined all the materials available on record.

On Careful examination of the impugned order dated 01-12-2020 issued by the Commissioner (Arts & Culture), Government of Manipur, rejecting the request of the petitioner for regularization of his contractual service as Junior Lecturer (Vocal) in the aforesaid Music College, it is found that the ground given for such rejection is that the contractual service of the petitioner was extended upto 31-03-1999 and framing of the scheme of regularization of casual/ contract employees was in 2004 and was only for those who were in service till 2004. Another reason given by the respondents in their affidavit-in-opposition for not considering the case of the petitioner for regularization of his contractual service in terms of the direction given by the Gauhati High Court and the scheme framed by the Government is that even though the petitioner was eligible at the time of his initial appointment as Junior Lecturer (Vocal) under the relevant R.R. of 1984, he become ineligible for the same post under the new R.R. of 1998.

[14] On careful examination of the contents of the scheme, which have been extensively quoted hereinabove, this court is of the considered view that the said scheme had been framed/ prepared by the Government as a State policy for absorbing the services of 55 casual/ contract employees named therein, including the present petitioner, of the Arts & Culture Department, Manipur. The scheme nowhere postulates that the scheme is applicable only to those who were still in service at the time of framing of the said scheme. On the other hand, it is clearly laid down in paras. 2 and

7 of the said scheme that the purpose of the scheme is for absorption/ regularization of the service of 55 casual/ contract employees of the Arts & Culture Department, Manipur and the names and particulars of those 55 casual/ contract employees, including the present petitioner, were also shown. In such view of the matter, the rejection of the claim of the petitioner for regularization of his contractual service as Junior Lecturer (Vocal) on the ground that the scheme is applicable only to those casual/ contract employees who were still in service at the time of framing of the said scheme is unsustainable and deserves to be quash and set aside.

[15] This court also found force in the submission advanced by the learned senior counsel appearing for the petitioner that as the orders of the Gauhati High Court dated 30-03-1999 passed in WP(C) No. 267 of 1999 and the order dated 28-07-1999 passed in WP(C) No. 960 of 1999 directing the respondents not to throw out the petitioner from service till the framing of the scheme and consideration of his case under the said scheme and the direction for issuing necessary order for extension of service of the petitioner has attained finality, the respondents are duty bound to implement the same and the respondents cannot refuse to consider the case of the petitioner for regularization of his contractual service as Junior Lecturer (Vocal) in the said College on the ground that his contract service was not extended. This court is of the considered view that the respondents cannot act contrary to the clear direction given by the High Court in its orders dated 30-03-1999 passed in WP(C) No. 267 of 1999 and order dated 28-07-1999 passed in WP(C) No. 960 of 1999 and they cannot nullify such

clear cut direction of the High Court only on the plea that the contractual service of the petitioner was not extended specially when they have failed to issue necessary extension orders in compliance with the direction given by the High Court.

[16] Even though under the terms and conditions as laid down in para. 8 of the scheme, it is mentioned that absorption of the casual/ contract employees will be made in phases by giving priority to fulfilment of the requisite qualifications etc. as per the relevant/ approved R.R. of the respective posts, it is nowhere mentioned that such absorption shall be subject to fulfilment of the latest R.R. While giving directions by the Gauhati High Court for preparation of a scheme for absorption/ regularization of the casual/ contract employees, it was made clear by the High Court that the benefit of the past services of those employees/ workers shall be taken into account for the purpose of their retirement benefits and other pensionary benefits and for the purpose of absorption also. Taking into consideration such clear cut directions given by the Gauhati High Court as well as keeping in view that there is not specific condition under the Scheme that the absorption/ regularization of the casual/ contract service shall be subject to the fulfilment of the latest R.R., this court is of the considered view that the relevant or approved R.R. as mentioned in the terms and conditions of the scheme will construe to mean the Recruitment Rules of the respective posts existing and applicable at the time of initial appointment of the casual/ contract employees. To construe otherwise, in

my considered view, will defeat the very purpose of framing the said scheme and implementation of the directions given by the High Court.

As the petitioner was qualified and eligible as per the R.R. of the post of Junior Lecturer (Vocal) existing and applicable at the time of his initial appointment, the respondents can consider the case of the petitioner for his absorption as per the said R.R. of 1984 and in terms of the provisions of the scheme. Moreover, as the respondents have not denied the statement made by the petitioner in his rejoinder affidavit that the contract service of Shri L. Nobin Singh, Junior Lecturer, who is similarly situated with the petitioner, have been regularized by the order dated 09-02-2015 under the scheme framed by the Government, this court is of the considered view that the respondents cannot apply a different yardstick in the case of the petitioner and the petitioner is entitled to the same benefit as are given by the Government to the said Shri L. Nobin Singh.

[17] In view of the findings and reasons given hereinabove, this court is inclined to disposed of the present writ petition with the following directions:

- (a) The impugned order dated 01-12-2020 issued by the Commissioner (Arts & Culture), Government of Manipur rejecting the claim of the petitioner for his absorption/ regularization as Junior Lecturer (Vocal) is hereby quashed and set aside;
- (b) The respondents are directed to consider the case of the petitioner for regularization/ absorption of his contractual service

as Junior Lecturer (Vocal) in the Shree Shree Bal Mukunda Dev Government Music College, Imphal in terms of the scheme framed by the Government and strictly in terms of the directions given by the Gauhati High Court in its order dated 30-03-1999 passed in WP(C) No. 267 of 1999 and order dated 28-07-1999 passed in WP(C) No. 960 of 1999 and issue necessary orders; and

- (c) The whole process should be completed within a period of three months from the date of receipt of a certified copy of this order.

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

JUDGE

FR / NFR

Devananda