

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

WP(C)No.871 of 2017

Smt. Moirangthem (ongbi) Ibetombi Devi, aged about 47 years, W/o (late) M. Suresh Singh, Ex-Constable No.87007, resident of Moirang Thoya Leikai, BPO and PS Moirang, District Bishnupur, Manipur.

.....Petitioner

– Versus –

1. The State of Manipur through the Additional Chief Secretary/Special Secretary/Commissioner (Home), Government of Manipur, Imphal, Manipur.
2. The Joint Secretary (Home), Government of Manipur, Imphal, Manipur.
3. The Director General of Police, Government of Manipur, Imphal, Manipur.
4. The Superintendent of Police, Senapati District, Manipur.
5. The Principal Secretary/Commissioner (Finance), Government of Manipur, Imphal, Manipur.
6. The Under Secretary (Pension Cell), Government of Manipur, Imphal, Manipur.
7. The Accountant General(A&E), Manipur, Imphal.

.... Respondents

BEFORE

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioner : Mr. Ch. Robinchandra, Adv.
For the Respondents : Mr. H. Samarjit, GA R1-6, Mr. Samarjeet, Sr. PCCG R7.
Date of reserved. : 04.12.2023 & 04.04.2024.
Date of order : 08.04.2024

JUDGMENT & ORDER
(CAV)

[1] Heard Mr. Ch. Robinchandra, learned counsel for the petitioner, Mr. H. Samarjit, learned GA for the State respondent Nos. 1 to 6 and Mr. S. Samarjeet, learned Sr. PCCG for respondent No.7.

[2] By the present writ petition, the petitioner prayed for quashing the impugned order dated 02.11.2017 and to grant Special Pension to the petitioner for the service of her husband, Late, M. Suresh Singh, Constable No.870007 under the Rules of Manipur Services (Special Pension), Rules 1982. The point for determination in the present case is whether a police personnel discharged from service as invalid as result of injuries suffered in attacks by militants and subsequently died, would be entitled to Special Pension under the Rules of 1982.

[3] The facts and circumstances narrated in the petition are that the petitioner's husband (Late) M. Suresh Singh during his life time was

serving as Police Constable being Constable No.870007 in the Department of Home, Government of Manipur and posted in the Office of the Superintendent of Police, Senapati District. While he was in service, he had been declared as unfit in the Government service by the State Medical Board Manipur because he was suffering from an acute chronic mental disease after sustaining injuries in militant attack. Therefore, he was allowed to retire from his service on invalid pension on medical ground vide order dated 29.08.1996 as issued by the Superintendent of Police, Senapati District, Manipur w.e.f. 29.08.1996. As per the Office record as issued by the Superintendent of Police, Senapati District, Manipur vide letter dated 13.12.2005 the petitioner's husband initially entered his service as Police Constable w.e.f. 12.11.1987 and retired from service on Invalid pension with effect from 23.8.1996. The petitioner's husband (Late) M. Suresh Singh, Ex-Constable No.870007 expired on 12.11.1996 while awaiting the releasing of pension and other retirement benefits. During his life time he did not draw his pension and the other retirement benefits including G.P.F. and leave Salaries etc. On his death, he left behind his wife (the present petitioner) and his 3(three) minor sons.

[4] On the expiry of M. Suresh Singh, Ex-Constable No.870007, the Accountant General, Manipur issued a sanction letter dated 20.05.1997

for payment of death gratuity of Rs.25,532.00p. (Rupees twenty five thousand five hundred thirty two) only to his wife, the present writ petitioner. Except this small amount of death gratuity, the respondents did not pay any amount nor granted the family pension to the petitioner till date. The said letter stated that the payment was made on the identification as per P.P.O. No.7994. The petitioner just after the death of her husband, M. Suresh Singh, Ex-Constable No.870007, she had submitted all the necessary pension papers/documents including the service book to the concerned authorities. But the respondents did not make payment of the family pension to the petitioner as admissible according to the existing Rules. The poor family was wholly depended upon the monthly salaries of the deceased employees, Late M. Suresh Singh, Ex-Constable No.870007. Due to the loss of the sole bread winner the poor family could not find any means to manage its affairs in the normal course of events of the day-to-day lives. The petitioner being a widow and her sons were all minors she had lost her strength to find daily breads. Therefore, she filed a writ petition which was registered as W.P.(C) No.479 of 2006 praying for giving a direction to the respondents to grant family pension as admissible under the existing rules to come to the normal course of lives of the family otherwise the poor family members will go starvation. During the pendency of the case the petitioner submitted a

representation dated 27.12.2011 to the authorities to consider the case and to entitle herself to get/enjoy the special pension or family pension in respect of the death of her husband being his cause of death was due to injury received while performing his official duties as admissible under either (i) The Manipur Services (Special Pension) Rules, 1982 or (ii) The Manipur Services (Extra-Ordinary Pension) Rules, 1995 and when the case was listed for hearing on 6.1.2015 the Hon'ble High Court heard the case and on perusal of the relevant records/documents was pleased to dispose of the said case i.e., WP (C) No.479 of 2006 directing the respondents to consider and dispose of the said representation dated 27.12.2011, copy of which is to be given afresh to the respondents within a period of 1(one) week, by taking appropriate decision within a period of 2(two) months from the date of receipt of a copy of the representation.

[5] As per the Hon'ble High Court's order dated 6.1.2015 passed in W.P. (C) No.479 of 2006, the petitioner through her counsel furnished the representation dated 27.12.2011 [Annexure-A-5] submitted by her to the authorities and the Hon'ble Court's order passed in W.P. (C) No.479 of 2006 along with a notice dated 13.1.2015 for doing the needful in terms of the Hon'ble High Court's order.

[6] The Superintendent of Police, Senapati District in connection with High Court's order dated 6.01.2015 passed in W.P. (C) No.479 of 2006 submitted the letter dated 28.02.2015 **[Annexure-A-8]** to the Inspector General of Police (Adm.), Manipur, Imphal. The said letter clearly stated that on 02.06.1995 at about 7:00 a.m. an incident of ambush was occurred by suspected Kuki militant on NH-39 near Leikop, about 8 kms. South to Kangpokpi Police Station in which R. Hopinson, IPS, the then SDPO/SPT and C/No.867116 S. Kroni Mao succumbed to bullet injuries on the spot and some constables/riflemen received injuries including Late M. Suresh Singh. They were escort personnel of SDPO/SPT. It refers to case FIR No.128(6)1995KPI-PS U/S121/121-A/307/326/302/427 IPC, 13 UA(P) act and 25(1-B)A. Act. Accordingly, the families of R. Hopinson, IPS and C/No.867116 S. Kroni Mao are enjoying family pension under Rule 4 of Manipur Services (Special Pension) Rules, 1982 before introduction of Manipur Liberalized Pension Rules, 2000. Police Constable M. Suresh expired on 12.11.1996 due to injury caused by suspected Kuki militants by way of ambush and torture.

[7] In the light of facts ascertained as noted above it is stated in letter dated 28.02.2015 that the case of invalid pension in respect of Ex-Constable No.870007 M. Suresh Singh in Senapati District Police may

kindly be moved/processed with Home Department, Government of Manipur under the Manipur Services (Special Pension) Rules, 1982/the Manipur Services (Extra Ordinary Pension) Rules, 1995 within the meaning of Rules 4(iii) of the Manipur Services (Liberalized Pension) Rules, 2000 for the ends of justice.

[8] Even though the Superintendent of Police, Senapati District, Manipur submitted the detailed report of causing death of the Ex-Constable M. Suresh Sigh (Constable No.870007) and those personnel who expired on the spot had already granted the facility of family pension under Rule 4 of Manipur Services (Special Pension) Rules, 1982 before introduction of Manipur Liberalized Pension Rules, 2000 the authorities failed to consider the case of the petitioner. Being aggrieved the petitioner filed a contempt of Court case against the authorities for wilful disobedient of the Hon'ble High Court's order being Contempt Case (C) No.151 of 2015 and in the said Contempt Case (C) No.151 of 2015 the respondent No.1 filed an affidavit-in-opposition on 3.11.2017 before the Hon'ble High Court as appended an order even No.20/1(38)/2006-H(LC): dated 2.11.2017 **[Annexure-A-9]** passed by the Joint Secretary (Home), Govt. of Manipur stating that in compliance of the Hon'ble High Court's order dated 6.1.2015 passed in

W.P.(C) No.479 of 2006, the representation dated 27.11.2011 was hereby disposed as devoid of merit.

[9] The Hon'ble High Court on the basis of the order dated 2.11.2017 filed by the respondent No.1, the Contempt Case (C) No.151 of 2015 was closed vide the order dated 3.11.2017 passed in the said contempt case. However, the Hon'ble High Court further ordered that if the petitioner is aggrieved by the rejection of the representation by the respondent authorities, liberty is granted to the petitioner to approach the competent forum for challenging the same in as much as direction of this Court was to consider and dispose of the representation of the petitioner by the respondents.

[10] It is stated that the respondents while considering and examining the representation dated 27.11.2011 of the petitioner, they had failed to consider and full examination of the Manipur Services (Special Pension) Rules, 1982. As per Rule 2(i)(a) of the Manipur Services (Special Pension) Rules, 1982 which clearly says that "Employees of the government of Manipur other than Casual employees, with a minimum of three years of service under the Government of Manipur" and, Rule 4(i) of the Manipur Services (Special Pension) Rules, 1982 which says that "In the event of the death of a Government servant defined in Rule 2(i) serving in

connection with the affairs of the State of Manipur caused by violence, or wrongful acts of a person or persons believed to be members of an extremist organization, the Governor of Manipur, shall, subject to the provision of these rules sanction a Special Pension equivalent to the “total emoluments” (including Dearness Allowances and Compensatory allowance) last drawn by the deceased Government Servant to the persons to draw his family pension under the Pension Rules governing the deceased Government Servants. Under Rule 2(i)(a) read with Rule 4(i) of the Manipur Services (Special Pension) Rules, 1982 the petitioner is entitled to enjoy the benefit of special pension for the past service of her husband, M. Suresh Singh, Constable No.870007 because he had served more than three years when he met the ambush occurred on 2.6.1995. Rule 4(i) of the Manipur Services (Special Pension) Rules, 1982 does not say that the victim must be death at the spot but it says that the event of death caused by violence.

Affidavit-in-Opposition of R- 3 & 4

[11] The respondent Nos. 3 & 4 filed counter affidavit stating that with reference to para No. 3 of the writ petition, the answering deponent humbly submits that as per office record the petitioner’s husband M. Suresh Singh joined at service on 12.11.1987 as a police constable bearing No. 870007 and he retired from service on invalid pension and struck off w.e.f.

29.08.1996 and he did not die in militant attack unlike others. It is stated that the benefits entitled with the petitioner's husband had been duly sanctioned. It is further submitted that the Death certificated and other related documents pertaining to invalid pension were submitted to Dy. Secretary (Pension Cell), government of Manipur Vide letter No. 42/INV/P/96-SP-SPT dated 05.03.1997 of the Superintendent of Police, Senapati District. It is further submitted that all necessary pension papers and documents including the service book had been submitted to the concerned authorities for further necessary action. However, Sr. Accounts Officer (Pension) A.G. Manipur, Imphal vide letter No. Pen/4-282(F)/IW/2007 dated 28.01.2015 intimated the Counsel of the petitioner that Shri M. Suresh Singh had rendered qualifying service of 8 (eight) years 9 (nine) months and 12 days which is less than 10 (ten) years of qualifying service under Rule 49 (i) and 50 (i) (a) of M.C.S. (Pension) Rules 1977 as amended from time to time and he is admissible to the service gratuity and retirement gratuity as calculated under Rule 49 and 50 *ibid* respectively and authorized to the petitioner under GPO/SF/2619. Further, it was stated in the said letter that Kroni Mao Ex-Constable 867116 and R. Hopingson, IPS were killed in the incident of ambush but Ex. Constable No. 870007 M. Suresh Singh expired after retirement from service. Accordingly Special pension was sanctioned to the

family of the deceased employee namely Kroni Mao and Hopingson under Rule 4 of Manipur (Special Pension) Rules, 1982 which was in force before the introduction of Manipur Liberalized Pension Rules, 2000. By the said letter, the Counsel of the petitioner was informed that in the above facts and rule position, neither family pension under Rule 54 of MCS (Pension) Rules, 1977 nor Special Pension under Manipur Services (Special Pension) Rules, 1982 is applicable to the petitioner's husband. The present petitioner has concealed this material facts of the information given by the Accountant General, Manipur to the Counsel of the petitioner. Therefore, the present petition is liable to be dismissed for concealment of material facts. It is pointed out that the death of the petitioner's husband was not caused by the violence or wrongful acts of a person or persons believed to the members of an extremist organization. Therefore, the entitlement of special pension to the petitioner does not arise at the in view of Rule 4 (i) of the Manipur Service (special pension) Rules 1982 as Ex. Constable No. 870007 M. Suresh Singh expired after being retired from service. He was not in service when at the time of his death. Further, the petitioner's husband had not served for more than 10 (ten) years of qualifying service as stipulated under Rule 49 (i) and 50 (a) of M.C.S. (Pension) Rules 1977 as amended from time to time.

Counter affidavit of respondent 7

[12] It is submitted that the Comptroller and Auditor General of India discharges his functions as defined in the Articles 149, 150 & 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Power and Conditions of Services) Act, 1971. Sections 10, 11 & 12 of DPC Act, 1971, which entrusts the discharge of Accounts and Entitlement functions till he is relieved from such duties by the Governor. It is submitted that office of the Accountant General is the field office where the concerned Accountant General performs his/her duties within the parameters laid down by the C&AG of India which are in consonance with the Constitution of India read with the DPC Act, 1971. As per the existing arrangements, the C&AG of India discharges Accounts & Entitlement related functions such as GPF, Pension and Gazetted Entitlement in Manipur, but the administrative authority and power vests with the State Government authorities alone. This office has no power to implement decisions that are not in consonance with rules, regulation and Government Instructions. The power to relax the rules or waive any condition in the rules/instructions rests solely with the State Government. It is only after the State Government issues a specific order in compliance of a court's order, either relaxing the rules/instructions, the Accountant General can implement such decisions/order. Therefore, the primary responsibility in implementing a court's order that requires relaxation

of rules/instructions rests with the state Government. This office only implements the decisions taken by the State authorities in various issues relating to maintenance of GPF, Pension and Gazetted Entitlement. Therefore, it is submitted that making Accountant General responsible for a function in which he does not have any say, except for mere compliance, is not as per the provisions. It is stated that in order to comply with the Hon'ble High Court of Manipur order dated 06.01.2015 passed in W.P. (C) No. 479 of 2006. Respondent No. 7, Principal Accountant General (A&E), Manipur has requested to the Principal Secretary (Home), Government of Manipur vide Pen-I/4-282(F)/IW/2007/582 dated 26.07.2016 to furnish a decision and issue an appropriate order. But no response has been received from the State authority till date. It is further submitted that if the State authority, Government of Manipur sanctions Special pension or Liberalized pension, Respondent No. 7, Principal Accountant General (A&E), Manipur, Imphal will act accordingly.

Rejoinder Affidavit of the petitioner to reply of the respondent Nos. 3

& 4.

[13] The petitioner states that the respondents failed to examine the report of the SP/Senapati District submitted on 28.02.2015 to the

IGP(Admn.), Govt. of Manipur (Annexure-A8 to the writ petition). By the said report it is clearly stated on 02.06.1995 at about 7:00 am, an incident of ambush was occurred by suspected kuki militants on NH-39 near Leikop, about 8 Kms South to Kangpokpi Police Station in which Shri R. Hopingson, IPS, the then SDPO/SPT and C/No.867116 S. Kironi Mao succumbed to bullet injuries on the spot and some constables/Riflemen received injuries including Late M. Suresh Singh. They were escort personnel of SDPO/SPT. It refers to Case FIR No.128(6)1995 KPI-PS U/s 121/121-A/307/326/302/427 IPS, 13UA(P) Act and 25(1-B)A Act. Accordingly the families of R. Hopingson, IPS and C/No 867116 S. Kironi Mao are enjoying family pension under Rule 4 of Manipur Service (Special Pension) Rules, 1982 before introduction of Manipur Liberalized Pension Rules, 2000. The said police constable, Mr. M. Suresh Singh(C/No.870007) after the incident was referred to the Community Health Centre, Moirang on 13.06.1995 and then referred to Psychiatric, J.N. Hospital, Porompat for further medical treatment. The Doctor dealing with the P/Constable opined that he is suffering from chronic Paranoidsche Zophrienia. Hence, invalid pension since 23.08.1996 during which P/Constable M. Suresh Singh expired on 12.11.1996 due to injury caused by suspected Kuki militants by way of ambush and torture.

[14] In the light of facts ascertained as noted above it is submitted that the case of invalid pension in r/o Ex-Constable No.870007 M. Suresh Singh of Senapati District police may kindly to moved/processed with Home Department, Government of Manipur under the Manipur Services(Special Pension) Rules, 1982/The Manipur Service(Extra ordinary Pension) Rules, 1995 within the meaning of Rules 4(III) of the Manipur Services(Liberalized Pension) Rules, 2000 for the end of justice.

Additional Affidavit filed by the petitioner dated 01.12.2021:

[15] During the pendency of the writ petition, the petitioner filed an application dated 28.10.2021 to the Superintendent of Police, Senapati District, Government of Manipur requesting to issue(i) FORM M.S.P-I of Rule 4 (ii) and (2) FORM M.S.P (II) of Rules 5(i) appended to the Manipur Services(Special Pension) Rules, 1982 duly filled in and signed by the concerned authorities in respect of my claim for grant of Special Pension regarding the service of her husband Late M. Suresh Singh, Ex-Constable No.870007 of SP/ Senapati so as to enable her to settle/finalize the claim for grant of Special Pension. As contemplated in Rule 4 of the Special Pension Rules 1982, the District Magistrate, Senapati certified that the husband of the petitioner died due to the violence/wrongful act of some extremist organisation. In the additional affidavit dated 01.12.2021, it is

asserted that the petitioner is entitled to special pension for the death of her husband. The Superintendent of Police, Senapati District, Manipur vide letter No.B-132/SP-SPT/2016/2027 dated 22.2021 has submitted the FORM M.S.P-I and FORM No.(ii) dully filled in and signed by the concerned authorities under the Manipur Services(Special Pension), Rules 1982 to the Inspector General of Police(Admn.) Manipur, Imphal.

[16] Mr. Ch. Robinchandra, learned counsel for the petitioner draws the attention of this Court to “The Manipur Services (Special Pension) Rules, 1982”. It is pointed out that the rules have been framed in order to grant ‘special pension’ equivalent to the ‘total emoluments’ to employees of State Govt, All India Services, Central Govt. on deputation, PSU, etc. who died in violence by members of extremist organisation. It is submitted that the rule is a benevolent legislation of compensating family members of employees died in militant action. As per Rule 2(a), an employee of State government with 3 years of regular service who died in such action, is entitled to special pension. Mr. Robinchandra reiterates that the rules do not stipulate that the employee must die instantly in the militant action and it is sufficient that the death must relate to militant’s action. He has further pointed out that the special pension under Rule 4(i) has to be granted upon a report of the concerned District Magistrate to the effect that the death of the deceased

government employee was caused by act of extremist organisation. Learned counsel for the petitioner states that in the present case, the husband of the petitioner worked more than three years as regular employee and as per certificate of the District Magistrate, Senapati, the death was related to action by an extremist organisation. It is also pointed out that the case of the petitioner does not fall within the prohibited clauses as per Rule 8. Attention is drawn to letter dated 28.02.2015 [Annexure-A-8] sent by the Superintendent of Police Senapati to the Inspector General of Police (Admn.), Manipur recommending the case of the petitioner's husband for special pension. It is stated that respondent No. 4 cannot retract from its stand in letter dated 28.02.2015 in the counter-affidavit and takes a different stand altogether. Rule 4(ii) mandates that the certificate of the District Magistrate is the conclusive proof that the employee died in militants' action. It is prayed that writ petition be allowed and the respondents be directed to grant special pension as per Rules of 1982 to the petitioner for death of her husband.

[17] Mr. H. Samarjit, learned Government Advocate has submitted that the Rules will be applicable to the government employee who died in militant's action. In any case, the death must relate to violence by extremist organisation. It is clarified that in the present case, the husband of the

petitioner did not die in as a result of ambush unlike other persons and he died due to some other disease after retirement. Hence, his case will not fall within the purview of special pension as per Rules of 1982. It is prayed that the writ petition be dismissed.

[18] This Court peruses the materials on record specially the rules and the report submitted by District Magistrate and has considered the submissions made at bar.

[19] The object behind legislating “The Manipur Services (Special Pension) Rules, 1982” is to compensate for the loss to the family members of government employees who died in militant action. The special pension is awarded for a sum equivalent to the total emoluments. The requirement is a certificate from the concerned District Magistrate to the effect that the death was due to violence by extremist organisation and such certificate is the conclusive proof of the nature of death as contemplated in Rule 4(ii). It is also stipulated by Rule 8 that the death was not due to suicide or self-injury, the government employee was not a member of any unlawful organisation and so as the claimant. It is also seen that the rule does not provide that the government employee should die instantly in the attack by militant. It will be sufficed if the death is relatable to any action by extremist

organisation. In lines of these conditions, each and every case has to be examined for awarding special pension.

[20] In the present case, the husband of the petitioner sustained injury in the attack by Kuki militants where two police personnel died and others injured. Her husband was discharged from service as invalid pension. He worked for more than three years as a regular employee. He did not belong to any unlawful organisation and there are no materials that the petitioners and her children are members of illegal organisation. The District Magistrate, Senapati issued a certificate that the death of the husband of the petitioner was due to the violence of extremist organisation. The injury was not self-inflicted and it was not a case of suicide. Earlier, the respondent No.4, ie, SP, Senapati was of the opinion in his letter dated 28.02.2015 that the death by due to ambush by Kuki militants and the petitioner's was covered by the special pension Rules of 1982. This Court is of the view that the respondent No.4 now cannot plead in total contradiction to his earlier recommendation and does a complete somersault. The respondents did not deny the certificate issued by the District Magistrate, Senapati to the fact that the death was due to militant's attack. The respondents cannot deny their own document.

[21] Accordingly, it is held that the husband of the petitioner died as a result of the ambush by Kuki militant within the meaning of “The Manipur Services (Special Pension) Rules, 1982” and the family is entitled to ‘special pension’ equivalent to ‘total emoluments’ as prescribed under Rule 4. The respondents are directed to pay same within a period of three months from the date of receipt of a copy of this order, failing which an interest @ 6% per annum from the date of application, ie, 27.12.2011 [Annexure-A-5]. In the facts and circumstances of the case, parties are directed to bear their own cost.

[22] Send a copy of this order to the respondent No.3 [DGP, Manipur] and the respondent No.7 [Accountant General, Manipur] for information and for initiating the compliance.

JUDGE

FR/NFR

John Kom

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