



Serial No.23
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 39 of 2023

Date of Decision :12.06.2024

MESEB Pensioners' Association,
B.C.House (Hydro),
Opposite Main Secretariat Building,
Mahatma Gandhi Road,
Shillong, Meghalaya,
Represented by its President,
Which post is now held by:-
Shri. Marius Kharkongor,
S/o (L) D. Mawrie,
R/o Umpling,
Shillong, East Khasi Hills.

...Petitioner

-Versus-

1. State of Meghalaya,
Represented by the Chief Secretary
to the Government of Meghalaya,
Meghalaya Secretariat,
M.G.Road, Shillong, Meghalaya.
2. The Department of Finance,
Government of Meghalaya,
Through the Secretary to the
Government of Meghalaya
In-charge of Finance Department,
Meghalaya Secretariat,
M.G.Road, Shillong, Meghalaya.
3. The Department of Power,
Government of Meghalaya,
Through the Secretary to the



Government of Meghalaya
In-charge of Power Department,
Meghalaya Secretariat,
M.G.Road, Shillong, Meghalaya.

4. The Meghalaya Energy Corporation Limited,
Lumjingshai, Short Round Road,
Shillong, Meghalaya,
Through its Chairman-cum-Managing Director.

...Respondents

AND

5. The Meghalaya State Electricity,
Regulatory Commission,
D.T.O. Office building,
Lower Lachumiere,
Shillong, Meghalaya,
Through its Chairman.

...Proforma Respondent

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. S.Chakrawarty, Sr. Adv. with
Mr. E.Laloo, Adv.

For the Respondent(s) : Mr. A.Kumar, AG with
Ms. R.Colney, GA
Mr. A.M.Pala, GA for R 1-4.
Mr. S.Chanda, Adv. vice
Mr. K.Paul, Sr. Adv. for R 5.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The petitioner who is stated to be a Pensioners' Association known as MeSEB Pensioners' Association, is before this Court with the following prayer:

“ In the premises aforesaid the humble petitioner abovenamed most respectfully prays that Your Lordships be graciously pleased to admit this petition, call for the records, if any, issue a Rule calling upon the respondents to show cause as to why they shall not be directed to forthwith pay and disburse the accumulated arrears of the retirement and pensionary benefits of the retired employees of the respondent No. 4 with Interest and also ensure that such benefits of the employees about to retire are also regularly paid and, upon cause/causes being shown and/ or upon hearing the parties, Your Lordships be further pleased to make the rule absolute;”

2. It has been submitted by the learned Sr. counsel appearing for the petitioners' Association that a substantial number of retired employees and the pensioners of the respondent No. 4 and its subsidiaries who have retired as far back as the year 2015, are yet to receive the retirement and pensionary benefits, and that the arrears receivable by these pensioners has been accumulating. It is further submitted that representations have been submitted for release of the said terminal benefits of the pensioners, but the same has been met by the same response citing lack of funds by the respondent No. 4.



3. Mr. S.Chakrawarty, learned Sr. counsel assisted by Mr. E.Laloo, learned counsel on behalf of the petitioners submits that the excuse given by the respondent No. 4 as to shortage of funds is untenable, inasmuch as, upon the cessation of the Meghalaya State Electricity Board and the establishment of the respondent No. 4, transfer of assets and liabilities had been effected by a transfer scheme under which a Memorandum of Understanding was also entered into between the Chairman and the Government of Meghalaya on 31-03-2010. It is further submitted that under the MOU, the State of Meghalaya was required to pay and disburse to the respondent No. 4 an amount of ₹ 840.04 crores to enable the latter to meet the requisite pending or imminent liabilities which includes the pension of the employees. As such, he submits there is no reason for denial of the retired employee's terminal benefits as the respondent No. 4 as per the MOU is to receive adequate funds.

4. Mr. A.Kumar, learned Advocate General assisted by Ms. R.Colney, learned GA on behalf of the respondents, at the outset has submitted that in a batch of writ petitions which were before this Court on the same issue, the same had been disposed of wherein, directions were issued giving the respondent No. 4 a period of one year to clear the said dues. He then submits that the issue having already been dealt with, nothing remains in the instant writ petition for adjudication. With regard to the contention of the



petitioners' Association that the MOU is present which should be acted upon by the respondents, learned Advocate General submits that no mandamus can be issued in such matters, and that as per the transfer scheme, it is the respondent No. 4 that shall be responsible for the obligations in respect of the terminal benefits.

5. Heard learned counsel for the parties, without referring or discussing the detailed facts of the instant case any further, it is noted that as pointed out by the learned Advocate General, the grievances as portrayed by the petitioners' Association has already been adjudicated by this Court in a series of writ petitions which were disposed of by a common judgment and order dated 23-02-2024. The same being very relevant and applicable to the instant case is reproduced in its totality hereinbelow:

<u><i>Serial No.11-26</i></u> <u><i>Regular List</i></u>

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 349 of 2022 with
WP(C) No. 426 of 2022
WP(C) No. 448 of 2022
WP(C). No.467 of 2022
WP(C) No. 487 of 2022
WP(C) No. 491 of 2022
WP(C) No. 504 of 2022
WP(C) No. 505 of 2022
WP(C) No. 506 of 2022
WP(C) No. 3 of 2023
WP(C) No. 47 of 2023



WP(C) No. 48 of 2023

WP(C) No. 49 of 2023

WP(C) No. 74 of 2023

WP(C) No. 154 of 2023

WP(C) No. 155 of 2023

Date of Order: 23.02.2024

<i>Shri. Samson Kharmujai Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Shri. Hunlang Lyngdoh Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Shri. Buyerstar Massar Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Shri. Bostok Dhar Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Smti. Shimtimon Dkhar Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Shri. Evermore Massar Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Smti. Healthy Merry Kharbuli Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Smti. Vicali Zhimomi Khyriem Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Shri. Joel Elphingstone Wahlang Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Shri. Okram Gulapi Singh Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Smti. Simplicity Lyngdoh Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Smti. Memorable Kharduit Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Smti. Anita Lyngdoh Vs.</i>	<i>Meghalaya Energy Corporation Limited & Ors.</i>
<i>Shri. S. Iohsngew Laso Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Smti. Dwissiyo Wahlang Vs.</i>	<i>State of Meghalaya & Ors.</i>
<i>Smti. Clara Shallam Vs.</i>	<i>State of Meghalaya & Ors.</i>



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

WP(C). No. 349 of 2022

WP(C). No. 426 of 2022

WP(C). No. 448 of 2022

WP(C). No. 467 of 2022

WP(C). No. 491 of 2022

For the Petitioner(s) : Mr. N. Syngkon, Adv.

For the Respondent(s) : Ms. R. Colney, Adv.

Appearance:

WP(C) No. 487 of 2022

*For the Petitioner(s): : Mr. M.L. Nongpiur, Adv.
Mr. J. Shylla, Adv.*

For the Respondent(s) : Ms. R. Colney, Adv.

Appearance:

WP(C) No. 504 of 2022

WP(C) No. 505 of 2022

WP(C) No. 506 of 2022

WP(C) No. 154 of 2023

WP(C) No. 155 of 2023

*For the Petitioner(s): Mr. R. Majaw, Adv. vice
Mr. S. Sen, Adv.*

*For the Respondent(s): Ms. Z.E. Nongkynrih, GA and
Mr. S. A. Sheikh, GA for R 1.
Ms. R. Colney, Adv. for R 2-9.*

**Appearance:****WP(C) No. 47 of 2023****WP(C) No. 48 of 2023****WP(C) No. 49 of 2023**

For the Petitioner(s): ***Mr. C.C.T. Sangma, Adv. vice
Mr. T.T. Diengdoh, Sr. Adv.***

For the Respondent(s) : ***Ms. R.Colney, Adv.***

Appearance:**WP(C) No. 3 of 2023**

For the Petitioner(s): ***Mr. S.Singphoo, Adv. vice
Mr. P. Yobin, Adv.***

For the Respondent(s) : ***Ms. Z.E. Nongkynrih, GA and
Mr. S.A. Sheikh, GA for R 1.
Ms. R.Colney, Adv. for R 2 & 3.***

Appearance:**WP(C) No. 74 of 2023**

For the Petitioner(s): ***Ms. A. Synrem, Adv.***

For the Respondent(s) : ***Ms. Z.E. Nongkynrih, GA and
Mr. S.A.Shiekh, GA for 1 & 2.
Ms. R.Colney, Adv. for R 3 & 4.***

***i) Whether approved for reporting in
Law journals etc:*** ***Yes/No***

***ii) Whether approved for publication
in press:*** ***Yes/No***

ORAL

***1. This batch of writ petitions which are similar and on the same
cause of action are being disposed of by this common order.***

***2. The grievance of the writ petitioners who are stated to be the
employees of the Meghalaya Energy Corporation Limited is that,
from the date of retirement and inspite of the fact that sanctions***



have been accorded for the amounts as permissible as DCRG and other retirement benefits, the same till date, is yet to be received. These petitioners who are all employees, it has been submitted, with the amounts being sanctioned and admitted by the respondents, the denial of the DCRG and other retirement benefits has caused them immense hardship and agony.

3. From the side of the respondent Corporation, the only reason that has been given is that the case is not one of denial of DCRG and other retirement benefits, but is due to various other reasons and factors which are not in the control of the respondent Corporation, and in order to strike a balance between running the operations and servicing of the liabilities of the petitioners, the amounts so due, have been unduly delayed.

4. It has been further stated by the respondent Corporation that a list of the retired employees is being maintained, and the terminal benefits in accordance with the priority and seniority of the petitioners, as per the date of retirement, is being released out of the available funds. It has however been submitted that 50% of the leave encashment benefit of the petitioners have since been released. It has also been brought on record that the outstanding liabilities of the retired employees, which includes leave encashment benefit and arrears, DCRG of pensioners and arrears, medical reimbursement and arrears on the revision of pension 2015 amounts to Rs. 199.04 crores.

5. A prayer is thus made that the respondent Corporation be given adequate time with an outer limit of two years to clear the entire dues of the persons mentioned in the list which have been filed in the affidavit, which contains about 648 names.

6. In the backdrop of these circumstances, it is noted that nothing remains for adjudication before this Court with regard to the entitlements of the petitioners, inasmuch as, the same is admitted and has been duly sanctioned by the respondent Corporation. The only point in contention is the prayer that has been made by the respondent Corporation for granting them adequate time, against the prayer of the petitioners who are facing financial crisis for expediting the payments.

7. In this view of the matter therefore, this Court itself finds it difficult at this stage to prescribe any fixed time frame for payment of DCRG and other retirement benefits, but considering the condition of the petitioners and other similarly situated pensioners, it is directed that the respondent Corporation shall endeavor to clear the dues of the petitioners preferably within a



period of one year from the date of this order. It is also provided that as and when financial condition permits, part payments may also be given to the petitioners to enable them to tide their financial difficulties.

8. With the above directions, these writ petitions stands closed and disposed of, however, with liberty allowing the petitioners to approach this Court on any other issues concerning the release of DCRG and other retirement benefits.

*Sd/-
Judge*

Meghalaya
23.02.2024
"Samantha PS"

6. As such, in view of the above noted judgment and order dated 23-02-2024, on the basis of the prayer of the petitioners' Association, nothing survives for consideration and the instant writ petition is accordingly disposed of in terms of the order dated 23-02-2024.

Judge

Meghalaya
12.06.2024

SAMANTHA ANNA
LIYA RYNJAH

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