



Serial No.27
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 107 of 2023

Date of Order : 07.08.2024

Smti. Debi Chakrabarty.

...Petitioner

-Versus-

1. State of Meghalaya,
Through the Chief Secretary to
Government of Meghalaya, Shillong.
2. The Director of School Education and
Literacy, Meghalaya, Shillong.
3. District School Education Officer,
West Garo Hills, Tura.
4. The Secretary, Dalu Bengali Deficit
Secondary School, West Garo Hills, Tura.

...Respondents.

Coram:

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

Appearance:

For the Petitioner/Applicant(s) : Mr. Philemon Nongbri, Adv.
Mr. E.Lalsangluaia, Adv.

For the Respondent(s) : Mr. N.D.Chullai, AAG with
Mr. E.R.Chyne, GA for R 1-3.
Mr. K.P.Bhattacharjee, Adv. for R 4.



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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. Heard Mr. Philemon Nongbri, learned counsel on behalf of the petitioner, Mr. N.D.Chullai, learned AAG assisted by Mr. E.R.Chyne, learned GA on behalf of the respondents No. 1-3 and Mr. K.P.Bhattacharjee, learned counsel on behalf of respondent No. 4.

2. The brief facts of the case are that the deceased husband of the writ petitioner who was initially appointed as an Assistant Teacher in Dalu Bengali Deficit Secondary School, West Garo Hills, Tura , while in service vide order dated 05-12-2011, issued by the District School Education Officer, West Garo Hills, Tura (respondent No. 3), was placed in the graduate scale of pay with effect from the date of passing the Rastra Basha Ratna Degree which was equivalent to B.A.Degree with effect from 05-12-1996.

3. The deceased employee then superannuated on 31-07-2016, but however, the graduate scale of pay which he was entitled, as alleged, was never afforded to him. Being aggrieved thereby, the deceased employee had approached this Court with a prayer for granting the graduate scale of



pay w.e.f. 05-12-1996, but however, during the pendency of the writ petition, passed away, his wife namely, the present writ petitioner has been substituted in his place.

4. Mr. Philemon Nongbri, learned counsel for the petitioner submitted that the writ petitioner for no fault of his has been deprived of his due service benefits in the form of accruals after being placed in the graduate scale of pay and in this context, has drawn the attention of the Court to a letter dated 23-06-2020, which he submits indicates that the non-sanction of the graduate scale of pay was due to oversight from the office as the same was not processed on time. Thereafter, he submits that by a communication dated 30-07-2020, addressed to the Director of School and Literacy, Meghalaya, Shillong (respondent No. 2), a proposal statement of an amount of ₹7,04,119/- (Rupees Seven Lakhs Four Thousand One Hundred and Nineteen) only along with the Service Book and other connected papers had been submitted to the respondent No. 2. However, he submits thereafter the respondent No. 3 addressed a letter to the respondent No. 4, the Secretary of the Managing Committee to submit the approval order to respondent No. 2 for grant of graduate scale of pay. Learned counsel then submits that the matter having not proceeded thereafter, the deceased employee was compelled to approach this Court by way of this instant writ application. In support of his submissions, learned counsel has



placed reliance in the case of *Ram Pravesh Singh Vs. State of Bihar* reported in *(2006) SCC (L&S), 1986*, and submits that the principal of legitimate expectation will apply to the case of the deceased employee.

5. Mr. N.D.Chullai, learned AAG assisted by Mr. E.R.Chyne, learned GA on behalf of the respondents No. 1-3, firstly has raised objections on the ground of delay and laches and submits that the petitioner having slept over his rights ever since he retired since 2016, no relief will be permissible, inasmuch as, the writ petition was filed only in the year 2023. On the other ground, it is contended by learned AAG that the grant of graduate scale of pay was never approved by the competent authority which is the respondent No. 2, and that the same had been allowed by the respondent No. 3 who did not have the authority to do so. Learned AAG has also submitted that before grant of graduate scale of pay, the approval of the respondent No.2 is required and as such, there being no materials to show that there has been any approval at any point of time, the writ petitioner cannot be allowed the benefits which has been prayed by the deceased employee.

6. Mr. K.P.Bhattacharjee, learned counsel on behalf of the respondent No. 4 has endorsed the submissions made by the learned AAG and submits that it is not known whether the respondent No. 3 has any authority to place the deceased employee in the graduate scale of pay.



7. Upon hearing learned counsel for the parties, it is noted that by the order dated 05-12-2011, the placement of the deceased employee in the graduate scale of pay w.e.f. 05-12-1996 on him acquiring the added equivalent qualification was also informed to the Director of School Education and Literacy, Meghalaya, Shillong as can be evidenced from the said letter apart from the other correspondences. Further, as submitted, it is noted that the respondent No. 3 himself, had by letter dated 23-06-2020 acknowledged the fact that the case of the petitioner was not processed due to oversight on the part of the office and that it was only on 11-09-2020, that the question of lack of approval of the respondent No. 2 was raised.

8. From the materials placed on record and as submitted, it is noted that the correspondences from the order dated 05-12-2011 itself, are intradepartmental, and that the objections raised were after a period of 9(nine) years when the said order had been passed allowing the deceased employee retrospective benefits. Though a question of delay has been raised, in the considered view of this Court, the matter concerning an acquired right of the petitioner, and in view of the conduct of the respondents, the same is overlooked. The only question that remains to be decided by this Court is whether on the basis of the materials as produced, a mandamus can issue directing the respondents to grant the graduate scale of pay w.e.f. 1996.



9. Notwithstanding the fact that as has been contended by learned AAG that there is an absence of approval by the competent authority, it is observed that the fact that the deceased employee had obtained the requisite qualification and had served in the Dalu Bengali Deficit Secondary School, West Garo Hills, Tura, as noted in the order has never been disputed.

10. In these circumstances therefore, it is directed that on the basis of the qualification as obtained, the respondents are directed to examine the case of the deceased employee as to whether expost facto approval will be possible, if he is found entitled. This entire exercise shall be completed within 3(three) months from the date a copy of this order is submitted before the respondents.

11. As ordered above, writ petition stands closed and disposed of.

Judge