

GAHC030001892023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/7/2023

(Maj) Marx Chand Lenin
Medical Officer, Mizoram University, Aizawl

VERSUS

Prof. Pravakar Rath and Anr.
Vice Chancellor (Acting), Mizoram University, Aizawl, Mizoram P.O.No.190
2:Prof. Lalnundang

Advocate for the Petitioner : Mr Aldrin Lallawmzuala

Advocate for the Respondent : Mr. L.H. Lianhrima, Sr.Adv. for R1 & R2

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

JUDGMENT & ORDER (Oral)

Date of hearing and judgment : 09.02.2024.

Heard Mr. Aldrin Lallawmzuala, learned counsel for the petitioner. Also heard Mr. L.H. Lianhrima, learned senior counsel assisted by Ms. Ruth Lalruatfeli, learned counsel for the respondents/contemnors.

2. This is an application under Article 215 of the Constitution of India read with Section 12 of the Contempt of Court Act, 1971 alleging willful and

deliberate violation of this Hon'ble Court's Order dated 06.09.2022 in WP(C) No. 32/2018.

3. The case of the petitioner is that the petitioner was serving in the Army Medical Corps in the rank of Major and was given a Grade Pay of Rs. 6,600/-. Thereafter, he applied to the post of Medical Officer under the Mizoram University and after being selected was appointed to the said post on 20.11.2013 in PB-3 of Rs. 15,600-39,100+5400 Grade Pay plus other allowances as admissible w.e.f. 08.11.2023 (F/N). Since the petitioner was enjoying higher Grade Pay earlier in the Army, he approached before the Mizoram University with an application for granting him the same Grade Pay. Since the said application was not considered, he approached before this Court by filing a writ petition, i.e., WP(C) No. 32/2018.

4. In the aforesaid writ proceedings, this Court by Order dated 06.09.2022 was pleased to dispose of the writ petition with a direction that the petitioner shall file a fresh representation incorporating all the documents in support of his claim within a period of 3 (three) weeks and the respondent authorities were directed to dispose of the same by way of a speaking and reasoned order within a period of 2 (two) months.

5. By filing the instant contempt petition, the petitioner is alleging that though the representation of the petitioner has been disposed of, yet the same has not been done in the manner directed by this Court and accordingly, the respondent authorities are guilty of contempt.

6. Mr. Aldrin Lallawmzuala, learned counsel for the petitioner submits that the

order of the Court has not been strictly complied with.

7. Mr. L.H. Lianhrima, learned senior counsel on the other hand submits that the order of the Court has been complied and therefore, the contempt petition is liable to be dismissed.

8. I have heard the submissions made at the bar and have perused the materials available on record.

9. In order to appreciate the contention of the contested parties, paragraph No. 6 of the Judgment & Order dated 06.09.2022 is reproduced hereunder for ready reference:-

“6. As can be seen, the grievance of the petitioner is that he should be given a GP of Rs. 6,600/- as was given to him while serving in the Army Medical Corps. The fixation of pay of the petitioner, vide Order dated 20.01.2016 (Annexure-14) would go to show that the PB+GP of the petitioner has been fixed as PB-3 of Rs. 15,600-39,100+5,400 GP. The same order also indicates that the petitioner while serving in the Army Medical Corps was getting his salary in PB-3 of Rs. 15,600-39,100+6,600 GP which goes to show that there is decline in the grade pay given to the petitioner although, the order indicates that pay protection is extended to the petitioner. Likewise, as per the Communication dated 30.01.2017, the pay of the petitioner was re-fixed by granting him 5 (five) advance increments as on 08.11.2013 but even after such re-fixation, there is no change in the grade pay. While such is the situation, what has drawn the attention of the Court is that the representation of the petitioner dated 05.09.2017 admittedly, has not been considered by the respondent authorities. Therefore, without entering into the merits of the case, Court is of the view that the respondent authorities should consider his grievances particularly in the light of DACP Scheme conveyed by the University Grants Commission (UGC) to all the Registrars of Central Universities and UGC maintained Deemed to be Universities on 03/09.06.2011, the Communication dated 12.08.2015 by the Integrated Headquarters of Ministry of Defence (Army) and the Communication dated 05.10.2015 of the Office of the Principal, Controller of Defence & Accounts verifying and confirming the Military service of the petitioner. Since the

petitioner has not enclosed the relevant documents in his representation, he is given liberty to file a fresh representation incorporating all the documents in support of his claim. Let such representation be filed within a period of 3 (three) weeks from today. The respondent authorities upon receipt of the representation shall, within a period of 2 (two) months, consider and dispose of the same by way of a speaking and reasoned order, and communicate the same to the petitioner."

10. A bare perusal of the aforesaid paragraph indicates that this Court has directed the respondent authorities to dispose of the representation filed by the petitioner by way of a speaking and reasoned order. It further appears that this Court was also pleased to direct the respondent authorities to take into account the DACP Scheme conveyed by the UGC to all the Registrars of Central Universities and UGC maintained deemed to be Universities on 03/09.06.2011, the Communication dated 12.08.2015 by the Integrated Headquarters of Ministry of Defence (Army) and the Communication dated 05.10.2015 of the Office of the Principal, Controller of Defence & Accounts verifying and confirming the Military service of the petitioner.

11. Now, turning to the speaking order issued by the respondent authorities in terms of the said Judgment & Order, which is annexed as Annexure-6 to the Contempt Petition dated 17.02.2023, it appears that the respondent authorities have considered all the aspects of the matter and had disposed of the representation filed by the petitioner on 03.12.2022 by a speaking and reasoned order.

12. In order to constitute civil contempt, there has to be a willful disobedience to any judgment or order passed by a Court. As noted above, the respondent/contemnor has complied with the direction passed by this Court by Judgment & Order dated 06.09.2022 in WP(C) No. 32/2018. That being so, the

petitioner has failed to make out a case of disobedience of the Court's order by the respondent authorities. As regards, the grievances of the petitioner to the effect that the representation has not been considered in the manner stipulated by this Court, the petitioner is at liberty to take up that issue before the appropriate forum. However, there appears no willful violation of the Court's Order dated 06.09.2022 and therefore, the Contempt Petition is devoid of any merit whatsoever and is liable to be dismissed.

13. Accordingly, the Contempt Petition stands dismissed.

JUDGE

Comparing Assistant