

GAHC030007352024



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

Case No. : WP(C)/134/2024

Smt. Lalrinngheti Pachuau and Anr.
Ramhlun Sports Complex, Aizawl

VERSUS

The State of Mizoram and 3 Ors. r/b the Secretary to Govt. of Mizoram
Aizawl

Advocate for the Petitioner : Ms Valentina Laldinpuii

Advocate for the Respondent : Addl. AG/GA, Mizoram

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
ORDER

02.12.2024

Heard Ms. Valentina Laldinpuii, learned counsel for the petitioner along with Ms. Lalnunhlui, learned Govt. Advocate for the State respondents.

2. The instant writ petition is filed for the issuance of a direction to the respondents to pay arrear in increments to the petitioners in terms of the office memorandum dated 15.01.2010 issued by the Govt. of India, Ministry of Health & Family Welfare, Department of Health.

3. Ms. Valentina Laldinpuii, learned counsel for the petitioners submits that the petitioners were appointed to the post of Staff Nurse vide Office Order dated 30.05.2018 and on the completion of their probationary period, they were confirmed to their post vide Order dated 13.09.2013. Thereafter, the petitioners were recruited to the post of Tutor under Health & Family Welfare Department vide Office Order dated 04.10.2023. The learned counsel for the petitioners submits that in terms of the Fundamental Rules under FR 27(10)(2) and the Office Memorandum dated 15.01.2010 issued by the Govt. of India, Ministry of Health & Family Welfare, Department of Health, the petitioners were entitled to 2 (two) increments since they had possessed the qualification of B.Sc. at the time of their appointment dated 30.05.2018 as Staff Nurse.

4. The learned counsel for the petitioner further submits that the validity of the Office Memorandum dated 15.01.2010, and its applicability in the State of Mizoram, has been made absolute by a decision of a Coordinate Bench of this Court in WP(C) No. 73/2020 and WP(C) No. 75/2020 vide a common Judgment and Order dated 06.11.2023. A Coordinate Bench of this Court had also passed a similar order in WP(C) No. 50/2024 and WP(C) No. 42/2024 dated 04.06.2024 and 08.08.2024 respectively and in its order dated 01.11.2024 in WP(C) 111/2024, wherein, the Coordinate Bench of the Court gave direction to the respondent authorities to examine the claim of the petitioners in light of FR 27 (10) and the O.M. dated 15.01.2021. The learned counsel thus, submits that in view of the judgments of the Coordinate Benches of this Court, wherein the petitioners in the aforesaid cited cases have been given increments as per their entitlement, the present petitioners, being similarly situated should also be treated similarly, since the instant matter is covered by the mentioned cited cases and that the matter be disposed of at the motion stage.

5. Ms. Lalnunhlui, learned Govt. Advocate representing the State respondents, while accepting notice on behalf of the State respondents, in all fairness, submits that if the facts as projected by the petitioners is correct, then the instant case appear to be covered by the cases disposed of by the Coordinate Bench of this Court in WP(C) No. 73/2020 and WP(C) No. 75/2020, vide its common order dated 06.11.2023, WP(C) No. 50/2024 dated 04.06.2024 & as per its Judgment & Order dated 08.08.2024 in WP(C) No. 42/2024 and in WP(C) No. 111/2024 dated 01.11.2021.

6. Having heard the submissions made by the learned counsels for both the parties, this Court has perused the materials on record, wherein, it is seen that the petitioners were appointed to the post of Staff Nurse at the Mizoram Institute of Medical Education and Research (MIMER), now known as Zoram Medical College (ZMC), Falkawn vide Order Dated 30.05.2015 and after their regularization, they were recruited to the post of Tutor under Health and Family Welfare Department vide Order dated 04.10.2023. It is also the case of the petitioners that the petitioners already possessed the qualifications of B.Sc. at the time of their appointment as Staff Nurse.

The relevant portion of the Office Memorandum dated 15.01.2021 relied upon by the petitioners is highlighted herein under:

"(b). Two increments to the Nursing Staff possessing the following qualifications:-

(i) B.Sc (Hons.)/B.Sc/ Post Basic B.Sc/ Post Certificate B.Sc in Nursing (it) Post graduate Degree in Nursing, i.e. M.SC. (Nursing)...

2. The above benefit is effective from:

(i) The date of appointment to those who were recruited after 01-10-1986 and possessed these

qualifications at the time of appointment...

4. The grant of the aforesaid increments is subject to the condition that the concerned Nursing staff is not required to possess the qualification, for which the increment is claimed, as a condition of employment and that they have not been allowed a higher initial pay on account of the said qualifications prior to/on/or after 01-10-1986"

Thus, this Court finds that the petitioners' case appear fairly covered by the above O.M.

7. Further, on perusal of the Judgment and Order of the Coordinate Bench of this Court in WP(C) No. 73/2020 and WP(C) No. 75/2020, dated 06.11.2023, its order in WP(C) No. 50/2024 dated 04.06.2024 & its order in WP(C) No. 42/2024 dated 08.08.2024, and in its order in WP(C) No. 111/2024 dated 01.11.2024, it appears that the present case is a covered case.

8. In view of the above, this Court find it fit to dispose of the instant writ petition with a similar direction as passed by the Coordinate Bench in WP(C) No. 111/2024, that the respondent authorities should examine the claim of the petitioners in light of FR 27 (10) and the O.M. dated 15.01.2010. In the event, it is found that the petitioners have acquired the required degree before their appointment in Zoram Medical College as Staff Nurse as stated by them, the benefit of the increment as laid down in the said provisions should be granted to them. The entire exercise is to be completed within a period of 3 (three) months from the date of receipt of the certified true copy of this order.

9. With the above observations and directions, the instant writ petition No. 134/2024 stands disposed of.

JUDGE

