

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

WP(C) No. 633 of 2015

Subedar Harendra Laishram , aged about 50 years
J.C. No. 341, 6th IRB, Pangei, S/o (L) L. Ibomcha
Singh and a resident of Nongmeibund Seiram
Leirak, P.O & P.S. Porompat in Imphal East District,
Manipur.

....Petitioner/s

Vs.

1. The State of Manipur represented by the
Commissioner, Principal Secretary (Home), to the
Govt. of Manipur at Imphal.
2. The Director General of Police, Manipur at Imphal.
3. The Commissioner 6th IRB, Pangei at Imphal East
District, Manipur.

....Respondent/s

**BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

**JUDGMENT & ORDER
(ORAL)**

11.09.2025

[1] Heard Mr. N. Umakanta, learned Sr. counsel appearing for the petitioner and Mr. Shyam Sharma, learned GA appearing for the respondents.

[2] The present writ petition has been filed with a prayer, inter alia, for quashing the portion of order dated 03.05.2012 issued by the Director General of Police (DGP), Manipur whereby the petitioner was denied full payment of his monthly pay and allowances during the period of his suspension, i.e. from 14.11.2008 to 24.05.2010. The petitioner also made a prayer for directing the authorities to give full payment of his monthly pay and allowances after deducting the subsistence allowances received by him during the period of his suspension.

[3] The brief facts of the case is that while the petitioner was serving as Subedar in the Manipur Police Department, he was placed under suspension by an order dated 14.11.2008 issued by the Director General of Police

(DGP), Manipur in contemplation of a disciplinary proceeding against the petitioner. In the said suspension order, it is provided that the petitioner will be entitled to subsistence allowances as admissible under the rule during the period of his suspension.

[4] When the authorities did not proceed with the disciplinary proceeding against the petitioner, for a long time, the petitioner approach the Hon'ble Guwahati High Court by filing a writ petition being WP(C) No. 533 of 2009 challenging the contemplated departmental enquiry against him. The said writ petition was disposed of by the Guwahati High Court by a judgment and order dated 21.12.2009 by giving the following directions;

"6. For the aforesaid reason, this Court is of the considered view that the petitioner cannot be placed under suspension for an indefinite period till sub-mission of the charge sheet of the said FIR. The apex court in OP Gupta Vs. Union of India: (1987) 4 SCC 328 held that long continuation of suspension pending departmental enquiry is punitive and affects the means of livelihood of the suspended employee. The apex court in the State of Punjab Vs. Goyal (1995) 2 SCC 570 held that the departmental enquiry should be completed within a reasonable period.

7. For the aforesaid reasons, this writ petition is disposed of by directing the State respondents to complete the departmental enquiry against the petitioner within a period of four months from the date of receipt of a certified copy of this Judgment and order and, in case of failure on the part of

the State respondents to complete the departmental enquiry against the petitioner within the stipulated period, the petitioner should be re-instated in service forthwith without prejudicing the departmental enquiry.”

[5] Subsequently, when the authorities cannot complete the departmental enquiry against the petitioner, the Director General of Police (DGP), Manipur, who is the disciplinary authority, issued an order dated 24.05.2010 revoking the suspension order of the petitioner without any prejudice to the pending departmental enquiry against the petitioner. The said order has been issued in compliance with the direction given by the Hon’ble Guwahati High court in its judgment and order dated 21.12.2009 passed in WP(C) No. 533 of 2009.

[6] Later on, after completion of the departmental enquiry against the petitioner and on the basis of the report submitted by the enquiry officer, the Director General of Police (DGP), Manipur issued an order dated 03.05.2012 by which the departmental enquiry against the petitioner was closed and the petitioner was exonerated honourably from all the charges made against him and he was reinstated back in service with immediate effect. In the said order, it is provided

that the period of his suspension, i.e. from 14.11.2008 till the date of his reinstatement in service, i.e. 24.05.2010 will be treated as on duty for all purposes except for pay and allowances, which will be restricted to his subsistence allowances already drawn by the petitioner. Having being aggrieved by this part of order, the petitioner preferred this writ petition challenging the same.

[7] The case of the petitioner is that as he had been exonerated honourably from all charges levelled against him, he is entitled to get all the service benefits including full pay and allowances for the period he was placed under suspension after deducting the subsistence allowances already drawn by him, as provided under F.R. 54-B (3) of the Fundamental Rules.

[8] In support of his contention, the learned Sr. counsel appearing for the petitioner cited the judgment rendered by the Hon'ble Apex Court in the case of **"Deepali Gundu Surwase vs Kranti Junior Adhyapak Mahavidyalaya (D. ED.) and Others"** reported in (2013) 10 SCC 324 wherein at paragraph 22 of the judgment it has been held as under;

"22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."

[9] In the case of "**Raj Narain vs Union of India & ors**" **reported in (2019) 5 SCC 809** the Hon'ble Apex Court held as under;

"7. The point that remains to be considered is whether the appellant is entitled to payment of full wages between 1979

and 1987. The appellant was placed under suspension on 23-10-1979 and his suspension was revoked on 21-10-1987. An interesting development took place during the interregnum by which the disciplinary proceedings were dropped on 21-3-1983. It is clear from the record that the appellant was the one who was seeking postponement of the departmental enquiry in view of the pendency of criminal case. The order of suspension was in contemplation of disciplinary proceedings. By virtue of the disciplinary proceedings being dropped, the appellant becomes entitled to claim full salary for the period from the date of his suspension till the date of closure of the departmental enquiry. Thereafter, the respondents took four years to reinstate him by revoking his suspension. The order of suspension dated 23-10-1979 came to an end on 21-3-1983 which is the date on which disciplinary proceedings were dropped. The appellant ought to have been reinstated immediately thereafter unless a fresh order was passed, placing him under suspension during the pendency of the criminal trial which did not happen. Ultimately, the appellant was reinstated by an order dated 21-10-1987 by revocation of the order of suspension. Though, technically, the learned Additional Solicitor General is right in submitting that the impugned judgment does not even refer to the IA, we are not inclined to remit the matter to the High Court at this stage for fresh consideration of this point. We hold that the appellant is entitled for full wages from 23-10-1979 to 21-10-1987 after adjustment of the amounts already paid towards subsistence allowance.

8. For the reasons mentioned above, we approve the judgment of the High Court by holding that the appellant shall be entitled for back wages only from the date of acquittal on 31-8-2001, till the date of his reinstatement on 20-1-2003. Further, the appellant shall be entitled to full salary from 23-10-1979 to 21-10-1987."

[10] Relying on the provision of the F.R. 54-B (3) of the Fundamental Rules and the above mentioned judgment, it has been submitted by the learned Sr. counsel that the act of

the respondents in denying the petitioner the full payment of his monthly pay and allowances minus the subsistence allowances already received by the petitioner is ultra vires the establish provision of law and as such, a prayer has been made for allowing the present petition by directing the authorities to release the full pay and allowances due payable to the petitioner for the period from 14.11.2008 to 24.05.2010 after deducting the subsistence allowances already drawn by the petitioner within a stipulated period.

[11] Mr. Shyam Sharma, learned GA appearing for the respondents submitted that the present writ petition is not maintainable for the following two reasons;

- (i) That the petitioner has not exhausted the statutory forum available under the Assam Police Manual which provides for filing an appeal against an order passed by the authorities, if the petitioner is aggrieved by such order.
- (ii) In the present petition, the petitioner has not stated that he has no other adequate and alternative remedy and that the remedy

sought for will be complete and adequate,
as provided under the Manipur, High Court
Rules.

[12] The learned GA submitted that on the basis of the
aforesaid 2(two) reasons, the present petition be dismissed
as not maintainable.

[13] I have heard at length the submission advanced by
the learned counsel appearing for the parties and also
carefully examined the material available on record.

[14] With regard to submission advanced by the learned
GA regarding the availability of filling a statutory appeal as
provided under the Assam Police Manual, it is to be pointed
out that in Rule 66(V) under the heading Reserved,
Ordnance, Clothing, Guards and Escorts of part III of the
Assam Police Manual, it is provided that a member of the
service shall be entitled to appeal from an order imposing on
him any of the penalties specified in Rule 66(II) for major
punishment.

[15] Under Rule 66 (II) (2) of the aforesaid rule, major
penalties are specified as under:-

*"2. Major penalties. (a) Dismissal from service which shall
ordinarily be a disqualification for future employment; (b)*

Removal from service which shall not be disqualification for future employment; (c) Compulsory retirement; (d) Reduction to a lower service, grade or post or to a lower time scale or to a lower stage in a time scale; (e) Recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders to the Government of Assam or the Central Government or any other State Government, or any local or other authority to whom services of a Government servant had been lent; (f) Black mark; (g) With-holding of increments or promotion; (h) Censure.”

[16] Taking into consideration the aforesaid provisions of law as provided under the Assam Police Manual, this Court is satisfied that as no major penalty had been imposed upon the petitioner, this Court is of the considered view that no statutory appeal lies against the order passed by the Director General of Police (DGP), Manipur and as such, there is no substance in the submission advanced by the learned GA and accordingly, the same is hereby rejected.

[17] So far as the second ground raised by the learned GA is concerned, merely because a sentence has not been inserted in the writ petition, which is purely in the nature of a procedural requirement, this Court is inclined to reject the petition specially when the petitioner has been able to make out a solid case based on established principal of law.

Accordingly, this Court is inclined to reject the objection raised on behalf of the respondents.

[18] In the present case, it is an admitted position of fact that the petitioner was initially placed under suspension by order dated 14.11.2008 issued by the Director General of Police (DGP), Manipur in contemplation of a departmental enquiry against him. In the said order, it is provided that he will be entitled to subsistence allowances as admissible under Rules during the period of his suspension. Subsequently, in compliance with the judgment and order dated 21.12.2009 passed by the Guwahati High Court in WP(C) No. 533 of 2009, the Director General of Police (DGP), Manipur issued an order dated 24.05.2010 by which the suspension order of the petitioner was revoked and reinstated the petitioner back in service without prejudice to the pending departmental enquiry. It is also an undenied fact that the petitioner received the subsistence allowances due payable to him as provided under the rule during the period of his suspension, i.e., with effect from 14.11.2008 till 24.05.2010.

[19] It is also on record, that after completion of the departmental enquiry against the petitioner and on the basis

of the report submitted by the enquiry officer, the petitioner was exonerated honourably from all the charges leveled against him and the departmental enquiry against him was also closed by an order dated 03.05.2012 issued by the Director General of Police (DGP), Manipur.

[20] The only grievances of the petitioner is that in the said order dated 03.05.2012, the authorities denied full payment of the petitioner's pay and allowances for the period he was placed under suspension and restricting his pay and allowances only to the subsistence allowances already drawn by him.

[21] Under F.R. 54-B (3) it is provided as under;

"(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8) be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall be paid for the period of such delay only such amount (not being

the whole) of such pay and allowances as it may determine."

[22] Taking into consideration the provisions of F.R. 54-B (3) as well as the principal of law laid down by the Hon'ble Apex Court in the cases of **"Deepali Gundu Surwase"** (Supra) and **"Raj Narain"** (Supra) this court is satisfied that the petitioner is entitled to receive the full pay and allowances minus the subsistence allowances already received by him for the period he was placed under suspension, i.e. from 14.11.2008 till 24.05.2010.

Accordingly, the portion of the impugned order dated 03.05.2012 issued by the Director General of Police (DGP), Manipur, so far as it denied the full payment of the petitioner's pay and allowances for the period he was placed under suspension, i.e., w.e.f 14.11.2008 till 24.05.2010 is hereby quashed and set aside.

[23] Consequently, the respondents are hereby directed to released to the petitioner the full pay and allowances due payable to him minus the subsistence allowances already drawn by him for the aforesaid period as expeditiously as possible preferably within a period of three months from today.

[24] It is made clear that in the event if the respondents failed to pay to the petitioner the full pay and allowances as directed herein above, the total amount which is due payable to the petitioner shall carry an interest of 9% per annum from the date the petitioner is entitled to receive such amount till the date of actual payment.

With the aforesaid direction, the present writ petition is disposed of. Parties are to bear their own cost.

JUDGE

FR/NFR

Lucy