



Serial No.131
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 353 of 2024

Date of Decision: 17.11.2025

1. Shri. Kharka Bahadur Thapa.
2. Smti. Miraculous Paslein.
3. Smti (L) Radha Joshi, represented by her husband
Shri. Dil Ram Joshi.
4. Smti. Kalpana Chettri.
5. Smti. Rina Kor.
6. Late Ek Bahadur Chettri, represented by his wife
Smti. Obel Sohshang.
7. Shri. Ranjit Singh.
8. Shri. Ranko Khyriam.
9. Shri. Ganesh Prashad Sapkota.
10. Shri. Borshon Singh Rodborn.
11. Shri. Radhe Shyam Thakur.
12. Smti. Phrida Marbaniang.
13. Smti. Hermot Frankling Suchiang.
14. Smti. Kashmiri Kaur.
15. Shri. Amulya Das.
16. Shri. Sandrika Yadav.



17. Shri. Mahiuddin Ansari.
18. Shri. Heavenson Nonghuloo.
19. Shri. Yusuf Nongrum.
20. Shri. Kamlesh Prasad Shukla.
21. Shri. Niren Singh.
22. Shri. Montu Kr. Singh.
23. Shri. B.G.Thangkhiew.
24. Shri. Tellianching Ryntathiang.

...Petitioners

-Versus-

1. The State of Meghalaya, represented by the
Commissioner & Secretary,
Transport Department, Government of Meghalaya,
Shillong.
2. The Managing Director, Meghalaya
Transport Corporation (M.T.C.) Shillong.

...Respondents

Coram:

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

Appearance:

For the Petitioner/Applicant(s) : Mr. S.K.hassan, Adv.
Mr. E.Ahmed, Adv.

For the Respondent(s) : Mrs. T.Yangi B, AAG with
Mr. E.R.Chyne, GA for R 1.
Mr. S.Sen, Adv. for R 2.



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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 the learned counsel for the parties.
2. The writ petitioners who are stated to be retired employees of the Meghalaya Transport Corporation (MTC), an undertaking of the Government of Meghalaya are before this Court impugning two Resolutions dated 24-10-2018 and 29-10-2020, passed by the Board of Directors of the MTC, whereby the Meghalaya Fifth Pay Commission has been adopted w.e.f. 01-01-2019. The grievance basically centers around the fact that, as far as the State government is concerned the recommendations of the Meghalaya Fifth Pay Commission has been implemented since 01-01-2017.
3. Mr. S.K.Hassan, learned counsel for the petitioner has argued that there is no rational basis to create the artificial date, inasmuch as, on earlier occasions, the date adopted for implementation of the Pay Commission Reports has been as per the dates which have been adopted by the state government. Learned counsel has also submitted that the fixation of the implementation date by the MTC is arbitrary and has infringed Article 14 of



the Constitution as far as the employees are concerned. He therefore, prays that a mandamus be issued to direct the respondents to implement the Meghalaya Fifth Pay Commission w.e.f. 01-01-2017, and the writ petitioners accordingly be given their due arrears as permissible.

4. Mrs. T.Yangi B, learned AAG assisted by Mr. E.R.Chyne, learned GA appearing for the State respondent No. 1, has submitted that the employees of the MTC are not government employees and cannot claim parity with regular government employees, and that the implementation of the Meghalaya Fifth Pay Commission is also a decision that has been arrived at by the Board of Directors taking into consideration the relevant factors, such as, financial constraints and so on. She further submits that though the matter has been brought to the notice of the government, however, as the decision rests with the Board of Directors, no further directions were given by the state respondents.

5. Mr. S.Sen, learned counsel appearing for the respondent No. 2, i.e. the Managing Director, has at the outset raised an objection that the relevant necessary party i.e. the Meghalaya Transport Corporation has not been arrayed as a party in the instant writ petition, and only the Managing Director of the said Corporation has been made party. On this ground alone, he submits that the writ petition deserves no consideration and should be



dismissed in limine. Learned counsel has however, further submitted that even on merits, the writ petitioners have not made out any case, inasmuch as, the decision to implement the Meghalaya Fifth Pay Commission recommendation has been taken by a competent authority i.e. the Board of Directors of the MTC. In this context, learned counsel has drawn the attention of this Court to the Minutes of the 151st meeting of the Board of Directors held on 24-10-2018, wherein the pay scale of the MTC employees in accordance with the recommendations of the Meghalaya Fifth Pay Commission, 2017, was discussed and also the Minutes of the 154th meeting held on 29-10-2020, wherein the financial conditions of the Corporation was also again discussed. He submits that based on these meetings, after a considered decision, the date for implementation of the Meghalaya Fifth Pay Commission was fixed as 01-01-2019. He further submits that the same being an executive decision, there is no cause for interference, and in support of his arguments has placed reliance in the case of *State of Punjab & Ors. vrs. Amar Nath Goyal & Ors. (2005) 6 SCC 754*, wherein he submits the Supreme Court has held that the recommendations of the Pay Commission are not ipso facto binding on the Government, as the same has to be accepted and implemented. In the instant case, he submits, the Board of Directors having taken a decision based on the financial conditions as to the viability



of the date of implementation, no interference is called for nor can a mandamus issue in this regard.

6. Having heard the learned counsel for the parties and also on perusal of the materials as placed, the issue in question is only whether a mandamus can issue to direct the respondents to implement the Meghalaya Fifth Pay Commission recommendations from 01-01-2017, the date of implementation by the State Government in the circumstances pertaining to the instant case. Though the writ petitioners have not arrayed the Meghalaya Transport Corporation as a party, which indeed is a disabling feature which would normally entail dismissal of the writ petition at the threshold itself, however, this Court has also examined the other attendant facts and circumstances of the case. As submitted by the learned counsels for the respondents No. 1 and 2, it is an undisputed fact that the MTC, though a government undertaking, is a Corporation with a duly constituted Board of Directors, who manage the company independently, and as such, cannot be considered to be a department of the Government of Meghalaya or its employees taken to be government employees.

7. The decision with regard to the implementation of the Meghalaya Fifth Pay Commission from 01-01-2019, it is noticed by this Court, is based on the Minutes of the two meetings of the Board of Directors of the



Meghalaya Transport Corporation which were held on 24-10-2018 and 29-10-2020. For the sake of convenience, from the Minutes of the 151st meeting dated 24-10-2018, 151.10: Agenda No. 9, and from the Minutes of the 154th meeting dated 29-10-2020, 154.05: Agenda No. 4 and 154.09: Extra Agenda, which are relevant are reproduced hereinbelow:

“151.10: Agenda No. 9: Pay Scale of MTC in accordance with the recommendation of 5th Meghalaya Pay Commission 2017.”

The Board perused the agenda item. It was informed that if the pay structure in the revised scale is to be adopted there will be an additional monthly financial implication of an approximate amount of Rs. 17.55 lakhs over the existing salary requirement of Rs. 75.00 lakhs (approx.). Thus for clearing of arrear for 24(twenty four) months from 1.1.2017 to 31.12.2018 the financial implication comes to Rs. 5.00 crores (approx.).

After due deliberation the Board of Directors approved to adopt the Fifth Meghalaya Pay Commission since the Corporation is following the pay structure of the Govt. Therefore it allowed implementation of the Revised Pay Scale of the Government of Meghalaya to the employees of the Meghalaya Transport Corporation with effect from January 2019 with a condition that its implementation is subject to availability of fund.

The Board advised the M.D to come up with a proposal to submit to the Government for providing additional fund.

154.05: Agenda No. 4: Revenue Budget for the year 2020-2021.

The Budget Estimate for the year 2007-2008 of the Corporation has been prepared and is placed before the Board for consideration and approval.



Revenue Account – The Budget Estimate has projected a Revenue Receipt of Rs. 1399.79 lakhs and a Revenue Expenditure of Rs. 2057.20 lakhs (which includes a depreciation of Rs. 121.53 lakhs). Thus the Budget has projected a deficit of Rs. 778.94 (excluding Capital Contribution of Rs. 500.00 lakhs) for the year 2020-2021.

The Managing Director informed the Board of that the Corporation is still having huge outstanding liabilities, such as Provident Fund, Leave encashment and Gratuity, etc. With the serious efforts having been made by the management of the Corporation to clear the outstanding Provident Fund dues in the last two years, the outstanding Provident Fund now stands at Rs. 159.42 lakhs. This amount is proposed to be cleared during the current year 2020-2021.

After discussion and deliberation the Board approved the Revenue budget for 2020-2021 as presented before the Board.

154.09: Extra Agenda: Corrigendum of the Proceeding of the 151st and 152nd Board Meeting.

The Board deliberated on the matter at length and it was pointed out by the Member from the Planning that as per the decision taken in the 151st meeting R.O.P. is to be implemented with effect from 1st January 2019 then payment of arrear revised pay also should be made from 01.01.2019. Thereafter it was resolved by the Board that they should stick with implementation of the 5th Meghalaya Pay Commission to the employees of the Corporation be with effect from 1st January 2019 as approved earlier.”

8. A perusal of the above would clearly go to show that while arriving at the decision to implement the Fifth Pay Commission recommendations



from 01-01-2019, the Corporation had taken a considered decision keeping in mind the financial constraints that the Corporation was under. Further, it being settled law that the Corporation is the sole authority with the manner and date of implementation, and the same being an executive decision of the Corporation itself, in the considered opinion of this Court, no interference is called for.

9. For the reasons aforementioned, and on the facts and circumstances of the case, the writ petition is devoid of any merit and is accordingly dismissed.

Judge