IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P.(C) No. 489 of 2018

1. The Association of Premier State College, seniors, Manipur, through its General Secretary Dr. M.S. A. Khaliq Chishti, aged about 73 years, a resident of Thangal Bazar, Imphal, Manipur-795001.

... Petitioner-

- Versus -

1. The State of Manipur, through the Chief Secretary, Government of Manipur, Old Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

2. The Department of Higher & Technical Education, through the Principal Secretary/Commissioner/Secretary, Education (U), Old Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

3. The Director of Education (University & Hr. Edn.), Govt. of Manipur, Keishampat, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

4. The Department of Finance, through the Principal Secretary/Commissioner/Secretary(Finance), Govt of Manipur, Old Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

5. The Union of India through the Secretary to the Govt. of India, MHRD, Deptt. of Hr. Edn., Lal Bahadur Sastri Smriti, Maulana Azad Rd, Bal Bhawan, Man Singh Road Area, New Delhi, Delhi-110001.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE MV MURALIDARAN

For the Petitioner	::	Mr. BP Sahu, Sr. Adv & Mr. Phungyo Zingkhei, Adv.
For the respondents	::	Mr. Y. Ashang, GA & Mr. S. Samarjit, CGC(R-5).

Date of Hearing	::	26.11.2019
Date of Judgment & Order	::	22.01.2020

JUDGMENT & ORDER

(CAV)

Mr. BP Sahu, learned senior counsel as well as Mr. Phungyo Zingkhei, learned counsel appears for the petitioner and Mr. Y. Ashang, learned GA as well as Mr. S. Samarjit, learned CGC appears for the respondents.

[1]. This writ petition has been filed by the petitioner Association seeking to quash the impugned order dated 11.8.2017 issued by the Commissioner (Higher & Technical Education), Government of Manipur and to direct the respondents to implement the Office Memorandum dated 1.9.2008 and letter dated 15.12.2009 within the stipulated period so as to get the entitlements by the members of the petitioner Association.

[2]. Brief facts are as follows:

The petitioner is an Association formed by the retired State Government employees who served the Premier State Government Colleges of Manipur as reputed academics on the capacity of Readers/Lecturers (Selection Grade) etc. The members of the petitioner Association were recruited by the State Government on the

recommendation of the Union Public Service Commission before Manipur Public Service Commission came into existence.

2.1. Though the members of the petitioner Association were serving under the Department of Education (U), Government of Manipur, their pay and allowances were given on the recommendation made by the Central Pay Commission of the Government of India from time to time since 1973 consequent upon the introduction of UGC scales of pay to bring about a uniform pay scales and service conditions of the College and University Teachers and therefore, the members of the Petitioner Association were all enjoying the scales of pay fixed/revised by the Government of India from time to time under the terms and conditions attached therein.

2.2. The Government of India issued an Office Memorandum dated 1.9.2008 regarding implementation of Government's decision on the recommendation of the VI Central Pay Commission - Revision of pension of Pre-2006 pensioners/family pensioners etc. As per the said Memorandum, sanction was accorded to the Regulations of VI Pay Commission with effect from 1.1.2006 of pension/family pension. The Office Memorandum further stated that separate order will be issued in respect of employees who retired/died on or after 1.1.2006. Paragraph 2.1 of the said Memorandum provides that the same shall apply to all pensioners/family pensioners, who were drawing pension/family pension

on 1.1.2006 under the Central Civil Service (Pension) Rules, 1972, CCS (Extraordinary Pension) Rules and corresponding Rules applicable to railway pensioners and pensioners of All India Services.

2.3. The Ministry of Human Resources Development had issued a letter dated 15.12.2009 clarifying to the pay band applicable to Pre-2006 pensioners, who retired from the posts as readers/lecturers (SG) in the pre-revised scale of pay of Rs.12,000 - 18,300 or the corresponding pay scales applicable to 1.1.1996. Their pay band application should be in terms of para 4.2. therein.

2.4. The 4th respondent issued an order dated 20.9.2011 whereby arrears of pension/family pension in respect of the Government employees who retired/expired prior to 1.1.2009 for the period from 1.10.2009 to 31.3.2010 was released in equal instalments. The said order further states that in case of Pre-2006 pensioners/family pensioners shall be only the difference between the consolidated revised basic pension/basic family pension and calculation will not include any allowances like dearness relief, fixed medical allowance in both the case.

2.5. On 26.3.2013 the petitioner Association submitted a representation to the 1st respondent for revision of pension of pre-2006 pensioners who retired as Readers/Lecturers (SG) from the posts in the pre-revised scale of pay of Rs.12,000 - 18,300 with three years service in the scale. In the said representation, the petitioner Association requested

to adopt and take necessary action in favour of physical implementation of the scheme in the State as adopted by other States.

2.6. The Under Secretary (Higher and Technical Education), Government of Manipur addressed a letter to the Additional Director (University & Higher Education), Government of Manipur on 3.6.2013 regarding the revision of pension of pre-2006 pensioners, followed with another letter dated 11.6.2013 to expedite the submission of the required information at the earliest. On 15.6.2013, the petitioner Association submitted another representation to the Hon'ble Minister for Education.

2.7. On 27.6.2013, the Additional Director of University and Higher Education wrote a letter to the commissioner (Higher Education), Government of Manipur for revision of pension to the pre-2006 pensioners. It is averred that the scheme was entitled to teaching and the equivalent Grades etc. who have completed three years of service in the pre-revised scale of Rs.12,000 - 18,300/- and that the total number of pensioners/family pensioners who are to be covered under the revised scheme needed to be calculated. Accordingly, the financial involvement required for implementation of the revised scheme could be calculated. Thereafter, on 28.6.2013, the Additional Director wrote letter to all the Principals of Government Colleges, requesting for submission of the list of college teachers/equivalent cadres who retired from service before 1.1.2006 on or before 15.7.2013.

2.8. On 24.8.2013, the petitioner Association submitted a representation to the Hon'ble Minister, Education, Manipur for revision of their pension speedily. Since the matter was prolonging, on 10.3.2014, the petitioner Association submitted a representation to the 1st respondent regarding the inordinate delay in the adoption/implementation of the scheme formulated by the Government of India in the State of Manipur, thereby causing untold hardships to the ageing pensioners by referring to the representations, letters of the authorities with the particular reference to that of 27.6.2013 admitting that the scheme was entitled to teaching and equivalent grades and further requested to look into the matter and take appropriate actions to the effect that the matter did not prolong any further.

2.9. On 16.6.2014, the Deputy Secretary (Higher and Technical Education) addressed a letter to the Joint Director (University and Technical Education) for revision of pension of pre-2006 pensioners who retired as Readers/Lecturers (SG) from the post in the pre-revised scale of pay with three years service in the grade/scale. On 18.11.2014, the Deputy Secretary (Higher and Technical Education) addressed letter to the Director (University and Higher Education), Government of Manipur stating that the matter was being considered by the Administrative Department for placing the same before the State Cabinet after consultation with the Finance Department.

2.10. It is stated by the petitioner Association that the Hon'ble Minister advised to expedite the process at the earliest. On 1.12.2014, the Director of University and Higher Education furnished the list of pensioners/family pensioners. The letter further states that the financial involvement for the pensioners could not be calculated at the Directorate level and further requested to move either Finance Department or Accountant General, Manipur for calculation of financial involvement to be incurred in the proposed revised pension scheme of Pre-2006 pensioners.

2.11. The petitioner Association filed W.P.(C) No. 450 of 2016 seeking to direct the State authorities to implement the Office Memorandum dated 1.9.2008. By an order dated 11.11.2016, the said writ petition came to be disposed of with a direction to the respondent authorities to examine the claim of the members of the petitioner Association as regards the benefit entitled to them on the basis of the office Memorandum dated 1.9.2008 and grant the same to the members of the petitioner Association if they are entitled and if not, inform the petitioner Association accordingly.

2.12. Since the respondent authorities have not complied with the order of this Court, the petitioner Association filed Contempt Case (Civil) No. 107 of 2017. Pending Contempt Case, the Commissioner (Higher and Technical Education) issued the impugned order, which is challenged in the present petition.

[3]. Resisting the writ petition, respondent Nos.1 to 3 filed affidavit-in-opposition stating that the Government of Manipur on the recommendation of the Fitment Committee had adopted the recommendation of VI Pay Commission with certain modification and has implemented the same. In short, the Government of Manipur did not adopt the recommendation of the VI Central Pay Commission in toto. As a part of the State modification in adopting the VI Central Pay Commission, the Government of Manipur, issued Office Memorandum dated 5.5.2010 in respect of revision of the pension of Pre-2006 pensioners/family pensioners. Thereafter, necessary amendment has been effected to the provisions of the Manipur Civil Services (Pension) Rules, 1977 by issuing notification dated 26.8.2011. It is stated that the representation dated 26.3.2013 submitted by the petitioner Association could not be conceded, as it is against the provisions of the Manipur Civil Services (Pension) Rules as amended from time to time and notifications issued thereunder as explained.

3.1. It is also stated that the competent authorities of the Government of Manipur had minutely examined the claims of the petitioner Association and the report submitted by the various authorities of the State Government as well as the Office Memorandum dated 1.9.2008 and had arrived at a decision that since the Office Memorandum dated 1.9.2008 under which the petitioner Association is claiming benefits has not been

adopted by the State Government while taking decision to adopt the recommendation of the VI Central Pay Commission and issued Office Memorandum dated 5.5.2010, the claim of the petitioner Association cannot be accepted. While taking decision for rejection of the petitioner Association's claim, it is observed that the claims of the petitioner Association cannot be considered in isolation by relaxing the existing Rules as it would invite similar claims from different pensioners/family petitioners. Accordingly, the decision of the State Government was spelt out by issuing the impugned order dated 11.8.2017 and there is no illegality, infirmity and arbitrariness in issuing the impugned order and prayed for dismissal of the writ petition.

[4]. Assailing the impugned order, the learned counsel for the petitioner Association submitted that the members of the petitioner Association who had served in the Premier State Government Colleges of Manipur as Readers/Lecturers (SG) have been deprived of getting benefits accruing on the account of the Office Memorandum dated 1.9.2008 and the respondent authorities are neglecting to grant the said benefits without any valid reason. He would submit that the members of the petitioner Association had been drawing their pay and allowances as prescribed by the UGC from time to time prior to their retirement from service on superannuation and since they fulfilled the terms and conditions provided in the Office Memorandum dated 1.9.2008, they are entitled to the benefits

granted in the said Office Memorandum. However, the authorities have been denying the same in spite of assurance given by the Hon'ble Chief Minister on various occasion.

[5]. The learned counsel further submitted that the members of the petitioner Association have been running from pillar to post for the implementation, but the same has been denied by the respondent authorities without any sufficient reasons and in fact, the reason given for rejection of the benefits of the Office Memorandum dated 1.9.2008 as stated in the impugned order is concocted and fabricated. He would submit that the impugned order has been issued as an eyewash to evade Contempt Case filed by the petitioner Association for the disobedience of the order passed in W.P.(C) No. 450 of 2016.

[6]. The learned counsel further argued that the financial constraint stated by the respondent authorities is not a ground for denial of rights of a citizen and once the State adopts policies/schemes of the central Government, it is bound to follow alt the conditions given therein. However, in the case on hand, the respondent authorities have failed to adopt the scheme of the central Government given in the Office Memorandum dated 1.9.2008. Moreover, the impugned order has been passed prejudicial to the rights of the members of the petitioner Association and therefore, the same is liable to be quashed. The learned counsel also

prays for a direction to implement the office Memorandum dated 1.9.2008 to the members of the Petitioner Association.

[7]. Per contra, reiterating the reasoning given in the impugned order, the learned counsel for the respondents submitted that after examining the Office Memorandum dated 1.9.2008, particularly, para 4.2, the Government of Manipur has passed the impugned order and therefore, there is no illegality in issuing the impugned order. He would submit that the Finance Department in its letter dated 4.7.2017 had observed that the matter is regretted on the ground that para 4.2. of Office Memorandum dated 1.9.2008 was not adopted while issuance of Office Memorandum dated 5.5.2010 for the revision of pension of Pre-2006 pensioners/family pensioners and notification dated 26.8.2011 for amendment of the Manipur Civil Services (Pension) Rules, 2011 and also in view of the financial constraint faced by the State Government.

[8]. The learned counsel further submitted that after analysing/examining all the materials, a decision was taken to regret the claim made by the petitioner Association and therefore, there is no ground to interfere with the decision taken by the respondent authorities.

[9]. This Court considered the submissions made by learned counsel appearing on either side and also perused materials available on record.

[10]. The grievance of the petitioner Association is non-implementation of the scheme in question by the Government of Manipur despite declaration made and to cause physical implementation of the office Memorandum dated 1.9.2008 without any further delay.

[11]. It appears that after the implementation of the Government's decision on the recommendations of VI Pay Commission, the Ministry of Personnel, Public Grievances and Pension, Government of India, issued Office Memorandum dated 1.9.2008 for the revision of pension of the Pre-2006 pensioners/family pensioners. It also appears that in the light of the recommendation, the benefits of the said scheme formulated vide Office Memorandum and subsequent letters had to be implemented by the Government of Manipur as per the Government of India's letter dated 15.12.2009, as the required fund was already made available to all the States by the Centre.

[12]. According to the petitioner Association, the benefits of the scheme have still not reached them and the inordinate delay in the implementation was not at all proper and in fact, the same is against the National Policy on Education. According to the petitioners, on 27.6.2013, the Government had already admitted finally that the pensioners demand was genuine and legitimate as they are entitled according to the two decisions taken in 2008 and 2009.

[13]. On 27.6.2013, the Additional Director of University and Higher Education, Government of Manipur addressed a letter to the Commissioner (Higher Education), Government of Manipur to take up the process of identification of pensioners/family pensioners and also calculation of the financial involvement and submission of details to the higher authority. Thereafter, on 16.4.2014, the Deputy Secretary (Higher and Technical Education), Government of Manipur wrote a letter to the Joint Director (University and Higher Education), Government of Manipur to expedite the submission of the statement showing the total number of pensioners/family pensioners(Lecturer (SG)/Readers, who completed 3 years of continuous service in the same scale prior to 01.1.2006 and who were also falling within the category of college Teachers) at the earliest. In that letter, statement showing the details of financial involvement to be incurred in the case of proposed revised scheme of scales for retired College Teachers/Pensioners was also called for.

[14]. Since the concerned official to whom the task was given to complete for the Government to consider has taken more than one year and has failed to send list of pensioners of the Colleges concerned, the petitioner Association submitted a representation to the Hon'ble Education Minister, Government of Manipur seeking physical implementation of the scheme. From the letter dated 18.11.2014 of the Deputy Secretary of Higher and Technical Education, Government of Manipur, it is seen that the

Hon'ble Education Minister has personally advised the Deputy Secretary to expedite the process of the matter at the earliest. Thereafter the issue was brought to the knowledge of the Hon'ble Chief Minister as well as the Secretary, Cabinet and Confidential, Government of Manipur. Since the matter was getting delayed by one reason or the other, the petitioner Association approached this Court and filed W.P.(C) No. 450 of 2016 seeking to direct the respondent authorities to implement the Office Memorandum dated 1.9.2008.

[15]. By an order dated 11.11.2016, W.P.(C) No. 450 of 2016 has been disposed of by this Court and the order reads as under:

> *"Heard Mr.B.P.Sahu, learned senior counsel assisted by Mr. Phungyo Zingkhai, learned counsel appearing for the petitioner; heard also Ms. L. Monomala, learned G.A. appearing for the State respondents; and Mr. S. Rupachandra, learned A.S.G. appearing for respondent No. 5.*
>
> *This writ petition is filed by an Association formed by retired State Government Employees who had served in the Premier State Government Colleges of Manipur as Readers/Lecturers (Selection Grade) etc. The main prayer made in this writ petition is for directing the State authorities to implement the Office Memorandum dated*

01.09.2008 regarding the decision on the recommendation of the 6th Central Pay Commission/Revision of Pension of pre-2006 pensioners, family pensioners.

This Court is of the view that since the members of the petitioner Association are claiming implementation of the said Office Memorandum dated 01.09.2008, issued by the State Government, the authorities can examine the case of the members of the Association, and if the members of Association are entitled to any of the benefits accruing on account of the said Office Memorandum, there is no reason as to why the authorities should not grant the benefits.

Accordingly, the petition is closed with a direction to the respondent authorities to examine the claim of the members of the petitioner Association as regards the benefit entitled to them on the basis of the Officer Memorandum dated 01.09.2008 and grant the same to the members of the petitioner Association if they are entitled and if not, inform the petitioner Association accordingly.

The aforesaid exercise shall be done within a period of 6 (six) months from today.

It goes without saying that if the petitioner Association is aggrieved by any order that may be passed, the petitioner Association will have liberty to approach this Court."

[16]. Since the respondent authorities have failed to comply with the direction issued in W.P.(C) No. 450 of 2016, the petitioner Association has filed Contempt Case (Civil) No. 107 of 2017. Pending Contempt Case, the second respondent issued the impugned order dated 11.8.2017 rejecting the request of the petitioner Association. The relevant portion of the impugned order is extracted hereunder:

"6. And whereas, the Finance (PIC) vide letter No.17/40/2017-FD(PIC) dated 04.07.2017 had observed that the matter is regretted on the ground that the said para 4.2 of Government of India's office Memorandum No. 38/37/08-P&PW(A) dated 01.09, 2008 was not adopted white issuance of office Memorandum No.9/2/2010-FD(PIC), dated 05.05.2010 for revision of pension of Pre-2006 pensioners / family

pensioners and Notification No.9/56/2009-FD(PIC) dated 26.08.2011 for amendment of the Manipur Civil Services (Pension) Rules, 2011 and also in view of the financial constraint faced by the State Government.

7. And whereas, Finance (PIC) further observed that it would not be appropriate to consider the case of the Petitioner Association in isolation as there are other pensioners of the State Government of Manipur. Accordingly, the proposed extension of the benefit of the Government of India's Office Memorandum No.38/37/08-P&PW(A) dated 1.9.2008 to the Petitioner Association, if agreed to, will invite similar demand from others entailing huge expenditure from the state Exchequer which the state Government cannot afford in view of its precarious financial condition.

8. Now, therefore, in compliance of the Hon'ble High Court's Orders/directives given on 71.11.2016 to the State Government Respondents in W.P.(C) No. 450 of 2016 (The Association of Premier State College Seniors, Manipur, through its General Secretary v. The State of Manipur & Ors.) and taking into consideration the facts and circumstances mentioned in the above

paragraphs, the Governor of Manipur is pleased to order that the claim of the petitioner Association to implement the Office Memorandum dated 01.09.2008 of the Government of India related to the decision on the recommendation of the Sixth Central Pay Commission-Revision of Pension of pre-2006 Pensioners/Family Pensioners etc. is hereby regretted and cannot be entertained. Hence, the matter referred to above stands disposed of accordingly."

[17]. Thus, the reason for not entertaining the claim of the petitioner Association is mainly on the ground that similar demand from others will come and the State Government cannot afford in view of its precarious financial condition. This said ground taken by the commissioner of Higher and Technical Education, Government of Manipur is contrary to the earlier correspondences exchanged between the authorities and also against the assurance given by the Hon'ble Minister for Education.

[18]. In *Brij Mohan Lal v, Union of India and others, reported in (2012) 6 SCC 502,* the Hon'ble Supreme court held as under:

"137. Article 21 of the constitution of India takes in its sweep the right to expeditious and fair trial. Even Article 39-A of the constitution recognises the right of citizens to equal justice and free legal aid. To put it simply, it is

> *country with such judicial infrastructure and means of access to justice so that every person is able to receive an expeditious, inexpensive and fair trial. The plea of financial limitations or constraints can hardly be justified as a valid excuse to avoid performance of the constitutional duty of the Government, more particularly, when such rights are accepts as basic and fundamental to the human rights of citizens."*

[19]. It is settled that financial constraint cannot be a ground for denial of rights. There is no question of inviting similar demands. The pensioners are drawing pensions since their retirement as other Government employees do and the only difference is according to the UGC schemes and pay scales they draw. The case of the petitioner Association may be disposed as left out case by deducting the amount of pension already drawn from the actual pension amount to be drawn. Further, the increase in the fixation as per the formula will not be very much burdensome to the Government.

[20]. The learned counsel for the respondent State contended that as regards the employees under the State Government including all pensioners/family pensioners, it is always open to the State Government to exercise its discretion as policy decision in adopting the recommendation of the Central Pay Commission. According to the learned counsel,

Government of Manipur on the recommendation of the Fitment Committee had adopted the recommendation of the VI Pay Commission with certain modification and has already implemented. He would submit that the Government of Manipur did not adopt the recommendation of the VI Central Pay Commission fully.

[21]. On the other hand, the learned counsel for the petitioner Association submitted that the Government of Manipur is trying to mislead this Court by making unnecessary clarification as to the Government taking action in the interest of the State Government's employees based on the VI Central Pay Commission's recommendation. This Court finds some force in the submission made by the learned counsel for the petitioner Association.

[22]. As rightly argued by the learned counsel for the petitioner Association, para 4.2 of the Government of India's Official Memorandum dated 01.09.2008 is not in connection with the entitlement/disentitlement of the scheme to the petitioners. It is strictly with the fixation of pension that is to be calculated after the actual implementation of the scheme. In fact, para 4.2 provides *"the fixation of pension will be subject to the provision that the revised pension, in case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the Grade Pay corresponding to pre- revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, these will be fifty percent of the minimum revised pay scale".* Thus, there is no condition about the non-entitlement of the benefits of

revision to the members of the petitioner Association as contended by the respondent authorities.

[23]. In the instant case, the retirement benefits are offered by the VI Central Pay commission which the other state college teachers have been enjoying unlike the State College teachers. The claim of the petitioner Association was examined and having found that the same is genuine in the year 2013 itself, declared that the College teachers are entitled to the benefit of the revision of pension of pre-2006 pensioners/family pensioners vide letter dated 27.6.2013. Following the said declaration, necessary steps were also taken. However, implementation was not done due to the alleged financial constraint, which in my considered view is not acceptable as the Hon'ble Minister for Education as well as the Hon'ble Chief Minister in the earlier occasion assured the members of the petitioner Association for implementation of the scheme.

[24]. The argument of the learned counsel for the respondent State that the members of the petitioner Association are enjoying the pension/family pension under the Manipur Civil Services (Pension) Rules, 1977 as amended from time to time and therefore, so long as the amended Rules, 2011 and related Office Memorandums remain in force, the claim of the petitioner Association cannot be granted, cannot be countenanced. As rightly argued by the learned counsel for the petitioner Association, the State Government is trying to mislead this Court by making unnecessary

clarification as to the Government taking action in the interest of the State Government's employees based on the VI Central Pay Commission's recommendation. The issuance of Official Memorandum dated 05.5.2010 qua revision of pension of the Pre-2006 pensioners/family pensioners and subsequent notification dated 26.8.2011 were issued even when the Central Government's communication to all the State Chief Secretaries were there in 2008-2009 for due implementations in the States. The State Government cannot deny this situation and why did not the Government take up the case at that time before issuing the Official Memorandum of 2010 and notification of 2011 instead of treating the members of the petitioner Association equally with non-teaching employees in contravention of the letter to the Chief Secretary, Government of Manipur.

[25]. Though the State is not bound by schemes/policies framed by the Central Government/UGC, once it adopts such policies/schemes, it is bound to follow all the conditions given therein.

[26]. In *Jagdish Prasad Sharma and others v. State of Bihar and others, reported in (2013) 8 SCC 633,* the Hon'ble Supreme Court held:

> *"71. However, in the instant case, the said questions do not arise, inasmuch as, as mentioned hereinabove, the acceptance of the Scheme in its composite form was made discretionary and, therefore, there was no compulsion on the State and its authorities to adopt the*

Scheme. The problem lies in the desire of the State and its authorities to obtain the benefit of 80% of the salaries of the teachers and other staff under the Scheme, without increasing the age of retirement from 62 to 65 years, or the subsequent condition regarding the taking over of the Scheme with its financial implications from 1-4-2010.

72. As far as the States of Kerala and U.P. are concerned, they have their own problems which are localised and stand on a different footing from the other States, none of whom who appear to have the same problem. Education now being a List III subject, the State Government is at liberty to frame its own laws relating to education in the State and is not, therefore, bound to accept or follow the Regulations framed by UGC. It is only natural that if they wish to adopt the Regulations framed by the Commission under Section 26 of the UGC Act, 1956, the States will have to abide by the conditions as laid down by the Commission.

.....

73. The said submission, in our view, is not acceptable on account of the fact that in the first paragraph of

Section 67(a) it has been categorically stated that the age of superannuation would be 62 years. The second paragraph of the said section makes it even more clearer, since it reiterates that the date of retirement of non-teaching employees, other than the inferior servants, shall be the date on which he attains the age of 62 years. The first proviso also indicates that the university shall, in no case, extend the period of service of any of the teaching or non-teaching employee after he attains the age of 62 years. The second proviso, however, state that even after retirement, teachers may be reappointed in appropriate cases up to the age of 65 years in the manner laid down in the Statutes made in this behalf in accordance with the guidelines of the Commission.

.....

78. We are then faced with the situation where a composite scheme has been framed by UGC, whereby the Commission agreed to bear 80% of the expenses incurred by the State if such scheme was to be accepted, subject to the condition that the remaining 20% of the expense would be met by the State and that

on and from 1-4-2010, the State Government would take over the entire burden and would also have enhanced the age of superannuation of teachers and other staff from 62 to 65 years. There being no compulsion to accept and/or adopt the said Scheme, the States are free to decide as to whether the Scheme would be adopted by them or not. In our view, there can be no automatic application of the recommendations made by the Commission, without any conscious decision being taken by the State in this regard, on account of the financial implications and other consequences attached to such a decision. The case of those petitioners who have claimed that they should be given the benefit of the Scheme dehors the responsibility attached thereto, must, therefore, fail.

79. However, within this class of institutions there is a separate group where the State Governments themselves have taken a decision to adopt the Scheme. In such case, the consequences envisaged in the Scheme itself would automatically follow.

80. We, therefore, see no reason to interfere with the impugned judgment and order [State of Bihar v. Jagdish

Prasad Sharma, LPA No. 117 of 2010, decided on 18-5-2010 (Pat)] of the Division Bench of the High Court in all these matters in the light of the various submissions made on behalf of the respective parties. The several appeals, writ petitions and the transferred case, which involve the same questions as considered in this batch of cases, are all dismissed. However, the appeals filed by the State of Uttarakhand and the civil appeals arising out of SLPs (C) Nos. 6724, 13747 and 14676 of 2012 are allowed. As far as Transfer petitions Nos. 1062-1068 of 2012 are concerned, the same are allowed and the transferred cases are dismissed. The contempt petitions are disposed of by virtue of this judgment. However, persons who have continued to work on the basis of the interim orders [Jagdish Prasad Sharma v. State of Bihar, SLPs (C) Nos. 18766-82 of 2010, order dated 26-7-2010 (SC), wherein it was directed: "Issue notice returnable in four weeks. Dasti service, in addition, is also permitted. In the meanwhile, status quo as on today shall be maintained. "] passed by this Court or any other court, shall not be denied the benefit of service during the said period. The appeals and petitions having been dismissed, both the State

authorities and the Central authorities will be at liberty to work out their remedies in accordance with law."

[27]. As far as the scheme in question is concerned, it is a separate scheme meant exclusively for the University and College teachers. If the respondent authorities thoroughly examined the correspondences, it will be found that the scheme is for the academics only and cannot deny the fact that the other State Government employees were already given the benefits of the recommendations of the VI Pay Commission in the year 2010 with the issuance of the office Memorandum dated 05.05.2010. If there is any complaint or demand of the State Government employees, it is for the implementation of the VII Pay Commission. The thorough examination stated by the respondent authorities is only for closing the Contempt Case and not in true spirit.

[28]. There has been no ground to reject the legitimate claim made by the members of the petitioner Association, as it was based on the recommendation of the Central Pay Commission. Further, the impugned order came to be passed only after filing the contempt case filed by the petitioner Association for the non-compliance of the order dated 11.11 .2016 passed in W.P.(C) No. 450 of 2016. The manner in which and during pendency of the contempt case, the impugned order passed that too without giving an opportunity of hearing to the petitioner Association is only to show the compliance and not in accordance with the real issue involved.

The ground on which the claim of the petitioner Association was not considered by the respondent authorities is not acceptable. Moreover, the respondent authorities failed to examine the claim of the members of the petitioner Association as regards the benefits entitled to them on the basis of the office Memorandum dated 01.9.2008 and grant the same to them. Further, without examining the matter thoroughly, the impugned order came to be passed and therefore, the same is liable to be set aside.

[29]. In the result,

(i) The writ Petition is allowed.

(ii)The impugned order dated 11.8.2017 issued by the Deputy Secretary (Higher and Technical Education), Government of Manipur is set aside.

(iii)The respondent authorities are directed to implement the Office Memorandum dated 01.9.2008 issued by the Ministry of Personnel, Public Grievances and Pension' Department of Pension and Pensioner Welfare, Government of India and the letter dated 15.12.2009 issued by the MHRD, Department of Higher Education, Government of India, so as to enable the members of the petitioner Association to get their entitlements.

(iv)The said exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.

(v)No costs.

JUDGE

FR/NFR

Lynda

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