IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P.(C) No.584 of 2018

1. Khoirom Binashakhi Devi, aged about 62 years D/o. Kh. Tombi Singh of Lalambung Makhong Khoirom Leikai, Imphal West District, Manipur, 795001.
2. Huidrom Malati Devi, aged about 62 years, W/O. Laimayum Kedarnath Sharma of Khwai Brahmapur Nagamapal Laimayum Leirak, Imphal West District, Manipur, 795001.
3. Brahmacharimayum Nilakumari Devi, aged about 66 years, W/O. Sh. Iboton Sharma of Khwai Brahmapur Nagamapal Laimayum Leirak, Imphal West District, Manipur, 795001.

... Petitioners

-Versus -

1. The State of Manipur, represented by Principal Secretary/Commissioner, Education (S), Government of Manipur, Secretariat Old Building-795001, P.O & P.S. Imphal.
2. The Principal Secretary/Commissioner (Finance), Government of Manipur, Secretariat Old building-795001, P.O & P.S Imphal.
3. The Director of Education (S), Government of Manipur, P.O & P.S Lamphelpat-795001.
4. The Accountant General, Manipur, Babupara-795001, P.O. & P.S. Imphal.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioners	**:**	Mr. L. Raju, Advocate.
For the respondents	**:**	Mr.Vashum, G.A. & Mr. S. Suresh, learned ASG.
Date of Hearing	**:**	**17.06.2020.**
Date of Judgment & Order	**:**	**19.06.2020.**

JUDGMENT & ORDER
(CAV)

Heard Mr. L. Raju, learned counsel appearing for the petitioners, Mr. Vashum, learned Government Advocate appearing for the respondents No. 1, 2 & 3 and Mr. Suresh, learned ASG appearing for the respondent No. 4.

[2] The case of the petitioners is that they were all Trained Graduate Teachers in the Education (S) Department, Government of Manipur, enjoying senior scale of pay of Rs. 9300-34800 plus AGP of Rs. 4500/- as per the revision of scale of pay, vide order dated 03.06.2011 (at Annexure A/25 of the writ petition) before they retired from their service on attaining the age of superannuation w.e.f following dates:-

(i) Petitioner No. 1, Kh. Binashakhi Devi w.e.f. 31-03-2015;

(ii) Petitioner No. 2, H. Malati Devi w.e.f. 31-12-2014 and

(iii) Petitioner No. 3. B. Nilakumari Devi w.e.f 29-02-2012.

[3] Even though the petitioners were enjoying the aforesaid revised senior scale of pay of Rs. 9300-34800 plus AGP of Rs. 4500/- of Trained Graduate Teachers till the date of their retirement, the Office of the Accountant General, Manipur, (respondent No. 4) wrongly calculated the pensionary benefits of the petitioners on the basis of unrelated pay scale of Rs. 9300-34800 plus AGP Rs. 4300/- and such miscalculation of their pensionary benefits have caused serious reduction in their monthly pensions and retiral benefits.

Feeling aggrieved by such irregular calculation of their retiral benefits, the petitioners submitted a representation dated 23.09.2017 to the Hon'ble Minister of Education (S) through an association highlighting the grievances of the petitioners and other similarly situated teachers. However, the said representation has not been disposed of till date.

Having been aggrieved by such inaction on the part of the authorities of the Manipur Government, the petitioners have approached this Court by filing the present writ petition praying for granting the following reliefs:

> *"(i) To direct the Respondents to pay the monthly pension by calculating the Petitioners' last pay scale drawn i.e. Rs. 9300-34,800+AGP Rs. 4500/-.*
>
> *"(ii) To pay the accrued arrear pension and retiral benefits (Gratuity, Leave encashment etc.) and entitled corrected monthly pension within a stipulated period.*
>
> *"(iii) To pass any other order or direction, that the Hon'ble Court deems it fit and proper to secure justice."*

[4] During the pendency of the said writ petition, the petitioners filed an additional affidavit dated 30.05.2020 stating inter-alia that during the pendency of the present writ petition the Government of Manipur, Secretariat Education (S) Department issued an Office Memorandum dated 23.03.2019 clarifying that those teachers who had accepted/opted the modified ROP dated 03.06.2011 and retired from service, the applicable amount of pension may be calculated as 50% of average emolument or last pay drawn i.e., 50% of pay in the pay band plus AGP. The said Office Memorandum reads as under:

> ***"GOVERNMENT OF MANIPUR***
> ***SECRETARIAT: EDUCATION(S) DEPARTMENT***
> *.....*
> ***O F F I C E M E M O R A N D U M***
> *Imphal, the 23rd March, 2019*
>
> *Subject:* *Clarification on calculation of pension for those teachers who opted the modified ROP, 2010 vide Order No. 31/5/2001-SE(S) dated 03.06.2011 in respect of Education(S) Department.*
>
> *No. 12 (HC)/43/2018-SE(S): The undersigned is directed to refer to this Government Order No. 31/5/2001-SE(S) dated 03-06-2011 relating to the revision of scale of pay of different categories of regular teachers*

under the Education(S) Department as modified ROP, 2010 and in this regard the Administrative Department moved for approval of the Finance Department (PIC) in respect of those teachers who had accepted/opted the modified ROP dated 03-06-2011 and retired from service that the applicable amount of pension may be calculated as 50% of average emoluments or last emolument i.e. 50% of pay in the pay band plus AGP.

2. After due consideration of the proposal the Finance Department (PIC) has given concurrence to the proposal that pension may be calculated at 50% of average emoluments or last emolument/pay drawn (i.e. 50% of pay in pay band plus AGP).

3. In view of above, with the concurrence of the FD(PIC) it is hereby clarified that those teachers who had accepted/opted the modified ROP dated 03-06-2011 and retired from service, the applicable amount of pension may be calculated as 50% of average emoluments or last pay drawn i.e. 50 % of pay in pay band plus AGP.

(H. Deleep Singh)
Commissioner Education(S),
Government of Manipur."

[5] Mr. L. Raju, learned counsel appearing for the petitioners submitted that all the petitioners have accepted the senior scale of pay of Trained Graduate Teachers prescribed under the modified ROP dated 03.06.2011 and enjoying the said pay scale till their retirement on superannuation and accordingly, the petitioners are entitled to get their retiral benefits/ pensions by calculating at 50% of their average emoluments or last pay drawn i.e. 50% of pay in their pay band plus AGP as provided under the Office Memorandum dated 23.03.2019.

He also submitted on behalf of the petitioners that by relying on the aforesaid Office Memorandum dated 23.03.2019, this Court had granted reliefs to persons similarly situated as the petitioners by a common judgment & Order dated 08.08.2019 passed in **W.P.(C) No. 780 of 2017 &**

W.P.(C) No. 410 of 2018 and that the said judgment and order squarely covers the case of the present writ petitioners.

[6] Except for respondent No. 2, none of the other respondents filed any counter affidavit. In the said affidavit-in-opposition filed by the respondent No. 2, none of the averments made by the petitioners in their petitions are denied.

[7] Mr. Vashum, learned Government Advocate submitted that the authorities of the State Government may be allowed to verify the date of retirements of the petitioners and also the factum of their receiving the senior scale of pay of Trained Graduate Teachers as provided under the modified ROP dated 03.06.2011.

On the other hand, Mr. S. Suresh, learned ASG produced before this Court a letter dated 04.01.2020 of the Secretariat, Finance Department which reads as under:

GOVERNMENT OF MANIPUR
SECRETARIAT : FINANCE DEPARTMENT
(PAY IMPLEMENTATION CELL)

.....

No. 17/112/2018-FD(PIC) : Imphal, the 4th January, 2020

To

The Deputy Accountant General (A&E), Manipur.

Subject: Anomalies on regularisation of pay on introduction of Academic Grade Pay (AGP) of different categories of schools teachers under the Schools Education Department.

Sir,

I am directed to invite a reference to your office letter No. Pen-II/Edn-S/Policy(AGP)/2012/594, dated 26/12/2019 on the above

subject and to say that in terms of Para 5(ii) of the Order No. 31/5/2001-SE(S) dated 03/06/2011 regarding revision of payscales of schools teachers issued by the Administrative Department of Schools Education, ***"Basic Pay'*** *in the revised new pay structure means****, the pay drawn in the prescribed pay band + the applicable AGP.*** *Hence, Finance Department (Pay Implementation Cell) had, on 03/06/2011, conveyed no objection to the drawal of pension at 50% of average emolument or last pay drawn, as proposed by the Administrative Department, in their File No. 12(HC)/43/2018-SE(S). Accordingly, the Administrative Department of Schools Education issued Office Memorandum No. 12(HC)43/2018-SE(S) dated 23/03/2019 for calculation of pension @ 50% of average emoluments or last pay drawn.*

Meanwhile, the Hon'ble High Court in the common Judgment & Order passed on 08/08/2019 in W.P(C) No. 780 of 2017 & W.P.(C) No. 410 of 2018, the respondents are directed to pay pension to the petitioners at the rate of 50% of average emolument or last emolument i.e. 50% of pay band plus AGP.

You are, therefore, requested to take necessary action for payment of pension @ 50% of average emolument or last pay drawn to the petitioners as per the Office Memorandum No. 12(HC)/43/2018-SE(S) dated 23/03/2019 and in compliance of the common judgment & Order dated 08/08/2019 passed in WP.(C) No. 780 of 2017 & W.P.(C) No. 410 of 2018.

Yours faithfully,

(A Heera Singh)
Under Secretary (Finance/PIC),
Government of Manipur."

Mr. S. Suresh, learned ASG fairly submitted that in view of the letter dated 04.01.2020, the common Judgment & Order dated 08.08.2019 passed by this Court in **W.P.(C) No. 780 of 2017 and W.P.(C) No. 410 of 2018** and Office Memorandum dated 23.03.2019, the petitioners are entitled to get the reliefs sought for in the present writ petition.

[8] After hearing both the counsels and after perusal of the relevant records, it is hereby directed that the respondents should calculate the retiral benefits/pensions amount of the petitioners at the rate of 50% of the average emoluments of the petitioners or their last pay drawn i.e. 50%

of pay in their pay band plus AGP and thereafter, pay to the petitioners their monthly pensions and arrear amount due payable to the petitioners, if any.

[9] The said exercise shall be done within a period of 2 (two) months from the date of receipt of a copy of this order.

[10] With the above directions, the present writ petition is disposed of. The parties should bear their own costs.

JUDGE

FR/NFR

Lhaineichong

WAIKHOM TONEN MEITEI
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