Item No. 4

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

CONT.CAS(C) No. 4 of 2014

Jayantakumar Oinam

……. *Petitioner*

- Versus –

Shri R.K. Hemakumar Singh ; & Ors.

…. ... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

16.01.2020

[1] Mr. Sevananda, learned counsel appears for the petitioner; Mr. M. Devananda, learned counsel and Mr. B.P. Sahu, learned senior counsel appear for respondents.

[2] The contempt petition has been filed stating that the order dated 06.06.2013 passed in W.P. (C) No. 431 of 2011 has been disobeyed. Operative portion of the said order reads as follows:

> *Considering the above, this Court is of the view that the present writ petition can be disposed of with the direction to the Manipur Institute of Technology and other concerned respondents to allow the petitioner to resume service in terms of the order dated 23.11.2012 passed in W.A. No. 341 of 2011 as necessary condition mentioned in the said order has been fully complied with. It goes without saying that since the petitioner is allowed to resume duty, the petitioner would be entitled to the salaries and other benefits in accordance with law.*
>
> *With the above observation, writ petition stands disposed of.*

[3] Mr. M. Devananda, learned counsel filed additional affidavit dated 16.12.2019 with Annexures to show compliance of the order of the Court. On

25.11.2013 the following order was passed (Annexure-P/3 of the Additional Affidavit dated 16.12.2019).

ORDERS
Imphal, the 25th November, 2013.

No. MU/XIII/8-1(22)/08-MIT-Admn-I/575 Whereas, Shri Jayantakumar Oinam, Lecturer in English, MIT was granted Earned Leave for 120 days on four occasions continuously vide Orders dated 30/03/2010, 08/04/2010, 24/05/2010 and 25/06/2010 on Medical Certificate. Thereafter, Shri Singh was also granted Half Pay Leave for a continuous period of 240 days erroneously;

And whereas, on verification of the Leave Account of Shri Singh it was found that the Earned Leave and Half Pay Leave available in his Leave Account were 120 days and 57 days respectively. However, Shri Singh was granted Earned Leave for 123 days against the availability of 120 days (including 5 days Advance Credit on 01/07/2010) and Half Pay Leave for 240 days against the availability of 57 days. The irregularity was subsequently rectified by an Order dated 13/06/2011 by revising the grant of Earned Leave for 120 days for the period from 26/02/2010 to 25/06/2010 followed by Half Pay Leave for 57 days w.e.f. 26/06/2010 to 21/08/2010. The position was intimated vide MIT letter dated 21/06/2011 with the advice to apply for grant of Extra Ordinary Leave for the period from 22/08/2010 to the date;

And whereas, Shri Singh submitted an application dated 24/02/2011 with the subject "Joining report" through somebody else stating that he would like to rejoin his duty. Again, on 31/05/2011, Shri Singh submitted an application requesting to allow him to rejoin his duty with immediate effect. However, Shri Singh was not attending the MIT since 24/02/2011 on the date of submission of his letter under the caption "Joining Report";

And whereas, the Medical Certificate issued on 20/12/2010 submitted on 24/02/2011 was not in the prescribed Form-5 [Rule 24(3) of CCS Leave Rules, 1972]. As per the Medical Certificate "Form-5 the Authorised Medical Attendant should mention that Shri Singh has recovered from his illness and now found fit to resume in Government service. However, in the Medical Certificate submitted by Shri Singh, it was silent above the recovery from his illness;

And whereas, no order disallowing Shri Singh to resume his duty was issued. Instead, MIT is incurring extra avoidable expenditure on engagement of Guest Lecturer in English as Shri Singh was the lone Lecturer in English in the MIT;

And whereas, as there is no bar/restriction to resume his service and considering the requirement of services of a Lecturer in English, Shri Singh, if he completely recovered from his illness, is asked to report for his duty immediately.

(Prof. R.K. Hemakumar Singh)
Principal i/c,
Manipur Institute of Technology,
Takyelpat, Manipur.

Subsequently, on 30.11.2013 an addendum was passed which reads as follows:

Addendum
Imphal, the 30th November, 2013

No. MU/XIII/8-1(22)/08-MIT-Admn-I/585 Kindly add the following sentence at the bottom of Manipur Institute of Technology Office Orders No. No. MU/XIII/8-1(22)/08-MIT-Admn-I/575 dated 25/11/2013

"This issues in compliance of the Hon'ble High Court of Manipur Order dated 06/06/2013 passed in W.P. (C) No. 431 of 2011 and Order dated 20/09/2013 passed in Contempt Cas (C) No. 92 of 2013."

(Prof. R.K. Hemakumar Singh)
Principal i/c,
Manipur Institute of Technology,
Takyelpat, Manipur.

[3] Subsequently, another report dated 18.03.2017 (Annexure-P/7 to the additional affidavit) has been filed which gives details of salary paid to the petitioner from 04.05.2015 to November 2016. It is further stated that upto date payment has been made.

[4] A reading of the Court's order and compliance certificate makes it clear that the respondents have complied with the order of the Court. It is always open to the petitioner to claim any shortfall of salary or arrears if he is able to justify the same.

[5] As far as the present contempt petition is concerned, there is substantial compliance of the order of the Court in the document annexed to the additional affidavit dated 16.12.2019.

[6] Recording the above, the contempt petition stands closed.

CHIEF JUSTICE

Sandeep