MAYAN GLAMBAM CHANU NANDINI
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IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No.860 of 2018

(Through Video conference)

Md. Siraj Ahmad, aged about 46 years, s/o (L) Md. Abdul Ali, resident of Santhel Khong Mapan, PO & PS. Mayang Impha, District Kakching, Manipur-795132

…. *Petitioner*

- Versus –

1. State of Manipur, through the Commissioner (Finance), Govt. of Manipur, Secretariat building, PO & PS Imphal, Imphal West District, Manipur-795001.

2. The Secretary (MOBC), Govt. of Manipur, Secretariat, PO & PS Imphal, District Imphal West, Manipur-795001.

.... *Respondents*

BEFORE

HON'BLE MR. JUSTICE MV MURALIDARAN

O R D E R
(ORAL)

15.12.2020

[1] Heard Mr. Deepak Sahu, learned counsel for the petitioner and Mr.H. Samarjit, learned Government Advocate for the respondents.

[2] The prayer of the petitioner is as follow;

> *"Issue writ of mandamus and/or any other writ/order/direction to the respondents thereby correcting the pay scale of the petitioner and fixing at the scale of the main post i.e. the post of Assistant for the post held by him i.e. Assistant-cum-computer Operator of the Manipur State Minorities Commission i.e. RS.9300-34800+4200 with retrospective effect with effect from 11.5.2007."*

[3] The case of the petitioner is that he is a member of the minority community (Muslim), who has been serving as Assistant-cum-Computer Operator in the Manipur State Minorities Commission of the Department of Minorities and Other Backward Classes, Manipur. At the time of his initial contract engagement as Assistant-cum-Computer Operator his pay band was wrongly given as RS. 4000-6000 instead of RS.5000-8000 as per the notification dated 10.3.1999, which was published in the Government Gazette. On 7.7.2010, the principal Secretary (Finance), Government of Manipur issued an Office Memorandum regarding fixation of pay under the Manipur Service (Revised) pay Rules, 2010, Where by the pre-revised scale of RS.5000-150-8000 was fixed at the revised pay Band plus Grade pay PB RS.9300-34800 plus RS.4200 for the post held by the petitioner.

[4] Further case of the petitioner is that the Chairman, Manipur State Minorities Commission addressed a letter on 15.1.2013 to the Additional Chief Secretary (MOBC & SC), Government of Manipur requesting to re-fix the remuneration of the petitioner from RS.4000-6000 to the previsedscale of RS.5000-8000 to make equal with the other equivalent posts. Thereafter, another letter dated 25.9.2013 was also addresses regarding the same subject matter. However, no action was yet taken by the authorities. Hence, the writ petition.

[5] MR. Deepak Sahu, learn counsel for the petitioner submitted that at the time of his initial contract engagement as Assistant-cum-Computer Operator, the pay band of the petitioner was wrongly fixed as RS.4000-6000 instead of RS.5000-8000 and as per the notification dated 10.3.1999, the pre-vised pay of Assistant is RS.5000-8000, which is required to be corrected by the concerned department in the case of the petitioner. He would submit that despite several letters written by the Chairman, Manipur State Minorities Commission in the matter, no action was taken.

[6] Mr.H.Samarjit, learned Government Advocate appearing for the respondents submitted that applications were invited for engagement of one Assistant-cum-Computer

Operator on contract basis through an advertisement dated 18.8.2007 with remuneration fixed at RS.4000/- per month and that the petitioner had applied for the said post clearly knowing the remuneration of RS.4000/- per month. He would submit that upon successfully selected for the post, the petitioner was given the pay/honorarium as advertised and therefore, there is no infirmity in his pay.

[7] The learned Government Advocate further submitted that the petitioner was regularized against the newly created posts of Assistant-cum-Computer Operator with a pay scale of RS.5200-20200 plus GP RS.2400/-. As such, this post has no relation to Assistant or Assistant section Officer in any aspect. Hence, the claim of the petitioner is devoid of merits.

[8] In reply, the learned counsel for the petitioner submitted that when a post is created the remuneration/honorarium of the corresponding post has to be fetched from the scale rate fixed by the Finance Department and the same post cannot have different scales of pay. He then submitted that the post of Assistant-cum-computer Operator is combined of different scale of post. The fixed remuneration/scale of the Assistant-cum-Computer Operator at RS.4000-6000 is neither a scale of Assistant nor of Computer

Operator. The Assistant-cum-Computer Operator is not related to Assistant or Assistant Section Officer in any aspect and to accept the existing scale of the post is baseless. His further submission is fixing of the scale of Assistant-cum-Computer Operator was done in violation of the order dated 6.10.2006 issued by the finance Department.

[9] This Court considered the submissions raised by the learned counsel for the parties.

[10] There is no dispute that the joint Secretary (MOBC), Government of Manipur issued an order dated 3.1.2017 regularizing the contract staff of MSMC against the newly created posts, in which the name of the petitioner found place at Serial NO.1 as Assistant-cum-Computer Operator in the scale of pay of RS.5200-20200+2400. Thereafter, by the order dated 17.4.2017, the petitioner was re-designated as Assistant Section Officer rectifying the existing scale to that of Assistant as an important matter at the earliest. Subsequently, the Chairperson of Manipur State Minorities Commission wrote a letter to the Additional Chief Secretary (MOBC), Government of Manipur, where in it has been stated that the petitioner was suffering with unsuitable scale from initial appointment since 2007 and hence, the matter may be considered for correction

at an early date. For proper appreciation, the letter of the Chairperson is extracted here in under:

> *"Dear Surresh Babuji,*
>
> *I am to remind the discussion on dated 14/8/2017 relating the proposal of Shri Ashabuddin, the then honorable parliamentary Secretary (MOBC), Manipur regarding the pay scale rectification matter of Md Siraj Ahmad, Assistant cum Computer Operator of the Manipur State Minorities Commission and further inform that the post holder was appointed as Assistant having additional knowledge of computer after a formal DPC in the year 2007. His post is Assistant (now re-designated as ASO for the Secretariat Subordinate Services, Manipur) which carried sale in revised RS.9300-34800+4200 (pre-revised scale of RS.5000-8000) as per FD (PIC) norms. But he has been regularized on previously existing unsuitable scale revised RS.5200-20200+2400 (pre-revised RS.4000-6000) without correction based to the scale placed before the Cabinet which was mistaken Designation of post by combining different posts also would carry problems in future in the service matter of the post-holder since he has been regularized.*
>
> *It is, therefore, as suggested the fixed unsuitable scale of the combined post may please be corrected to the suitable scale of the Assistant (i.e. RS.9300-34800+4200) and re-designated the post also to Assistant only. The post holder has been suffering with the unsuitable scale from initial appointment since 2007.*

The matter may please be considered for correction at an early date.

With warm regards."

[11] Thus, the prayer of the petitioner as at the time when his initial contract engagement as Assistant-cum-Computer Operator, his pay band was wrongly given as RS.4000-6000 instead of RS.5000-8000 and the pre-revised pay of Assistant is RS.5000-8000 as per the notification dated 10.3.1999 which is required to be corrected by the respondents. It is also the case of the respondents was regularized against the newly created posts of Assistant-cum-Computer Operator with pay scale of RS.5200-20200+GP RS.2400 and as such, this post has no relation to Assistant or Assistant Section Officer in any aspect.

[12] It is to be mentioned at this juncture that the petitioner has not submitted any representation to the concerned authorities by narrating all these and also giving all particulars. Since the concerned authorities have to pass necessary orders over the grievance of the petitioner, in the interest of justice, it would be appropriate to direct the petitioner to submit a fresh representation by giving all particulars to the

respondents within a stipulated time in order to redress the grievance raised by the petitioner.

[13] Considering the facts and circumstances of the case and on consideration of the submissions made by both the parties, this court is inclined to pass the following orders:

(i) The writ petition is disposed of.

(ii) The petitioner is directed to submit a fresh representation by giving all particulars to the respondents within a period of two weeks from the date of receipt of a copy of this order.

(iii) On receipt of such representation, the second respondent is directed to consider the representation of the petitioner and pass a speaking order within a period of eight weeks thereafter after affording sufficient opportunity to the petitioner.

(iv) No cost

JUDGE

FR/NFR

John Kom