

(2025) 12 MAN CK 0045

Manipur HC

Case No: Writ Petition (C) No. 187 Of 2025

Dr. Sorokhaibam Bikramaditya
Meitei

APPELLANT

Vs

State Of Manipur & Ors

RESPONDENT

Date of Decision: Dec. 16, 2025

Hon'ble Judges: Ahanthem Bimol Singh, J

Bench: Single Bench

Advocate: N. Ibotombi, Th. Ningtamba, L. Monomala

Final Decision: Disposed Of

Judgement

Ahanthem Bimol Singh, J

[1] Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. Th. Ningtamba, learned counsel appearing for the petitioner and Mrs. L. Monomala, learned GA appearing for the respondents.

The present writ petition has been filed with the prayer for directing the respondents to issue promotion/ up-gradation order of the petitioner as Assistant Professor (Non-functional), JNIMS, under the Time-Scale Promotion (Regularly appointed Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post-Graduate Degree) Rules, 2018 on the basis of the recommendation made by the DPC in its meeting held on 14-12-2021 coupled with a prayer for quashing and setting aside the impugned letter dated 25-01-2025 of the Director, JNIMS, requesting the Secretariat: Health Department, Government of Manipur, regarding age of superannuation of regularly appointed Senior Resident/ Tutor/ Demonstrator/ LMO and other Medical Officers of JNIMS.

[2] The case of the petitioner is that he was appointed as Senior Resident in the Department of Psychiatry in the Jawaharlal Nehru Institute of Medical Sciences (JNIMS, for short). While he was working as Senior Resident, a DPC was held on 14-12-2021 for giving promotion/ up-gradation to the posts of Assistant Professor

(Non-functional) in JNIMS in respect of various Departments and the case of the petitioner was also considered. It is also the case of the petitioner that because of pendency of a Departmental Enquiry against him, the result of the said DPC in respect of the petitioner was kept in a Sealed Cover. Subsequently, the said Departmental Enquiry against the petitioner was concluded with the report that the charges framed against the petitioner cannot be proved and consequently, the Departmental Enquiry was closed by exonerating the petitioner from all charges. Later on, the Director, JNIMS, wrote a letter dated 10-06-2022 to the Chief Secretary (Health & Family Welfare), Government of Manipur seeking approval to open the Sealed Cover in respect of the petitioner and after obtaining approval of the Government, the Sealed Cover was opened and it was found that the DPC recommended the petitioner for promotion to the higher post of Assistant Professor (Non-functional). However, no appointment order was issued by the authorities despite the said recommendation made by the DPC

[3] In the meantime, the Deputy Director (Admn.), JNIMS, wrote a letter dated 14-02-2023 wherein it was indicated that the petitioner is due to retire from service w.e.f. 28-02-2023 on attaining the age of superannuation. Having been aggrieved, the petitioner approached this court by filing WP(C) No. 181 of 2023 assailing the said letter and in the said writ petition, this court passed an interim order directing the respondents to allow the petitioner to continue in service and that he should not be made to retire from service without the leave of this court and the said interim order is still continuing till today. It is also the case of the petitioner that by virtue of such interim order, he is still continuing in service and in the meantime, the Director, JNIMS, wrote a letter dated 09-09-2024 addressed to the Chief Secretary (Health & Family Welfare), Government of Manipur, requesting to take a decision regarding the age of superannuation of regularly appointed Senior Residents and Medical Officers of JNIMS. In the said letter, it is clearly mentioned that the petitioner was recommended by the DPC for promotion to the post of Assistant Professor (Non-functional) Psychiatry, JNIMS with the condition that his promotion shall be subject to the outcome of the disciplinary proceedings initiated against him. It was also mentioned in the said letter that on his promotion, his inter-se seniority will be as per the Seniority List issued vide order dated 12-11-2021.

[4] In response to the said letter of the Director, JNIMS, the Joint Secretary (Health & Family Welfare), Government of Manipur, wrote a letter to the Director, JNIMS on 27-12-2024, conveying the approval of the Government to the proceedings of the DPC for grant of Assistant Professor (Non-functional), Department of Psychiatry, JNIMS, under the Time-Scale Promotion Rules in respect of the petitioner. Despite such approval given by the Government, the authorities did not issue the promotion order in respect of the petitioner, instead, the Director, JNIMS, wrote another letter dated 25-01-2025 to the Commissioner (Health & Family Welfare), Government of Manipur, requesting for referring the matter to the Law & Legislative Affairs, Government of Manipur, for obtaining legal opinion with regard to the age of

superannuation of the regularly appointed Senior Residents and other Medical Officers of JNIMS. In the said letter, it is clearly mentioned that the effective date of the order for grant of Assistant Professor (Non-functional) in respect of the petitioner may be given as 21-12-2021, since the appointment order of other 11 (eleven) Assistant Professors (Non-functional) recommended by the said DPC held on 14-12-2021 was issued on 21-12-2021. Having been aggrieved by non-issuance of his appointment order as well as by the said letter dated 25-01-2025 of the Director, JNIMS, seeking for legal opinion of the Law & Legislative Affairs Department, the petitioner assailed the said letter in the present writ petition.

[5] It has been submitted by Mr. N. Ibotombi, learned senior counsel appearing for the petitioner that on the recommendation of the DPC held on 14-12-2021, other similarly situated persons like the petitioner have already been promoted by issuing an order dated 21-12-2021, however, as a Departmental Enquiry was pending against the petitioner at that time, the petitioner could not get such promotion. Later on, after closing the Departmental Enquiry by exonerating the petitioner from all charges and on being recommended by the said DPC, the petitioner is entitled to get regular promotion to the post of Assistant Professor (Non-functional) in the Psychiatry Department w.e.f. 21-12-2021, on which date other similarly situated persons have been given promotion. It has also been submitted by the learned senior counsel appearing for the petitioner that one person who is similarly situated like the petitioner and who was considered by the same DPC had been given promotion to the post of Assistant Professor (Non-functional) in the Department of Obstetrics and Gynecology w.e.f. 21-12-2021 and as such, the petitioner is also entitled to get similar relief.

[6] The learned senior counsel further submitted that if such promotion was given to the petitioner in time before 28-02-2023, the superannuation age of the petitioner should be 65 and not 60 and the petitioner can still continue in service as an Assistant Professor till he attained the superannuation age of 65 years. It has also been submitted by the learned senior counsel that non-issuance of the promotion/up-gradation order in respect of the petitioner is unreasonable and arbitrary in view of the fact that the Government has already conveyed the approval to the proceedings of the DPC held on 14-12-2021 for grant of Assistant Professor (Non-functional), Department of Psychiatry, JNIMS, in respect of the petitioner vide letter dated 27-12-2024.

[7] The respondent No. 1 did not contest the case of the petitioner, however, the respondent No. 2 filed an affidavit-in-opposition. By drawing the attention of this court to the letter dated 07-04-2024 from the respondent No. 2 addressed to the Commissioner (Health & Family Welfare) which is enclosed as Annexure J/1 to the affidavit-in-opposition filed by the respondent No. 2, it has been submitted by the learned GA that as per the JNIMS Services Rules, 2025, the appointing authority for the post of Senior Resident is the Chairman of the Executive Committee, JNIMS and

as such, the Secretariat: Health Department, Government of Manipur had been requested to issue necessary order in respect of the petitioner for his appointment as Assistant Professor (Non-functional). However, no appointment order has yet been issued by the authorities. It has been submitted by the learned GA that the authorities are considering as to whether the petitioner would be entitled to be promoted retrospectively w.e.f. 21-12-2021 as Assistant Professor (Non-functional) and the matter is still pending.

[8] Under Schedule-IV appended to the Jawaharlal Nehru Institute of Medical Sciences Services Rules, 2015, it is provided that the Chairman Executive Committee is the appointing authority of the Assistant Professor and under the Bye-Laws of the JNIMS, the Administrative Secretary, Health & Family Welfare, Government of Manipur, is the Chairman of the Executive Committee. Accordingly, the Administrative Secretary (Health & Family Welfare) is the appointing authority of the Assistant Professor (Non-functional) in JNIMS.

[9] As elaborately discussed above, the petitioner was considered for his up-gradation/ promotion to the post of Assistant Professor (Non-functional) by a DPC held on 14-12-2021 and because of pendency of a Departmental Enquiry against him, his case was placed under Sealed Cover. Later on, on being exonerated completely from the charges made against him, the said Departmental Enquiry against the petitioner was closed and after obtaining approval of the Government, the sealed cover was opened and the petitioner was found to be recommended for his promotion to the higher post of Assistant Professor (Non-functional). It is also on record that the Government has already given approval to the proceedings of the said DPC for promotion of the petitioner to the higher post of Assistant Professor (Non-functional), however, no promotion order has yet been issued.

In view of the above, this court see no reason why the present writ petition should not be allowed by directing the respondents to issue necessary orders for giving promotion to the petitioner to the higher post of Assistant Professor (Non-functional).

[10] In order to address the question as to whether the petitioner will be entitled to have his promotion retrospectively w.e.f. 21-12-2021, on which date other similarly situated persons and whose case were considered by the said DPC have been promoted, it will be gainful to refer to the Office Memorandum dated 14-09-1992 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, wherein at para. 3, it is, inter alia, provided that on conclusion of the disciplinary case/ criminal prosecution which results in dropping of allegation against the Government servant, the sealed cover/ covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/ covers and with reference to the date of promotion of his next junior on the basis of such position. It is also

provided that the Government servant may be promoted, if necessary, by reverting the junior-most officiating person and he may be promoted notionally with reference to the date of promotion of his junior.

[11] In the case of **W. Kumar Singh Vs. Commissioner/ Secretary (CADA), Government of Manipur**, reported in 2007 (1) GLT 66, it is recorded at para. 7 of the judgment that the Government of Manipur vide its Office Memorandum No. 1/5/92-DP, Imphal the 24th November, 1992 adopted the above mentioned Government of India, Department of Personnel & Trainings Office Memorandum No. 22011/4/91-Estt.(A) dated 14-09-1992 and as such, the said Office Memorandum regarding sealed cover procedure is applicable in the case of the present petitioner also.

[12] At para. 3 of the impugned letter dated 07-04-2025 of the respondent No. 3, it is also clearly mentioned that the effective date of the order for promotion of the petitioner as Assistant Professor (Non-functional) may be given as 21-12-2021, since the appointment order of other 11 (eleven) Assistant Professor (Non-functional) recommended by the same DPC held on 14-12-2021 was issued on 21-12-2021.

In view of the above undisputed factual position of law and taking into consideration the provisions at para. 3 of the aforesaid Office Memorandum dated 14-09-1992, this court is of the considered view that the petitioner will be entitled to be given promotion retrospectively w.e.f. 21-12-2021, on which date other similarly situated persons with him have been given promotion.

[13] In the result, the present writ petition is allowed by directing the respondents to promote the petitioner to the post of Assistant Professor (Non-functional) retrospectively w.e.f. 21-12-2021 by issuing necessary order at the earliest, however, not later than one month from the date of receipt of a certified copy of this order.

With the aforesaid directions, the present writ petition is disposed of. There will be no order as to cost.