

(2001) 06 GAU CK 0006

Gauhati High Court (Imphal Bench)

Case No: Writ Petition (C) No. 973 of 2001

Haobam Tomba Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision: June 13, 2001

Citation: (2003) 3 GLR 423

Hon'ble Judges: N.S. Singh, J

Bench: Single Bench

Advocate: Shanta Kaidem, for the Appellant; Ch. Bidyamani, Addl. GA, for the Respondent

Judgement

N.S. Singh, J.

Heard Mr. Shanta Khaidem, learned counsel for the petitioner/ Association and also Ms. Ch. Bidyamani Devi, learned, Addl. Govt. Advocate for the State respondents.

2. In this Writ petition, the petitioner/Association namely ; the All Manipur Lower Primary Schools" Head Pandit Association represented by its Secretary on behalf of 21 members of its Association sought for a direction to the respondents/Authorities concerned to allow these 21 in-charge Head Pandits to enjoy and get the tine scale of pay of Headmaster with effect from their initial appointment as in-charge Head Pandit of their respective schools by contending inter alia, that since the date of their assumption of charges as Head Pandit in their respective schools they have been serving and working as Head Pandit till today without any break of service but they have not been paid the scale of pay and allowances attached to the post of Head Pandit of L.P./Primary Schools without any justification.

3. Supporting the case of the Writ Petitioner, Mr. Shanta Khaidem, learned counsel submitted that the present case is squarely covered up by the related orders dated 13.7.1999, and 9.6.1999 passed by this court in W.P. (C) No. 578/99 and Writ Appeal No. 3/99 as in Annexure -A/23 and A/24 to the Writ Petition and as such, the members of this petitioner/Association should also get the benefit of it as they are similarly situated with those teachers/incharge Head Pandit.

4. I have perused the Writ Petition and also the appended documents to it. Particulars of these 21 members of the petitioner/Association including their appointment as Head Pandit in-charge of their respective schools finds its place in the document marked as Annexure - A/1 and in a short compass their particulars are reproduced as hereinunder :

Sl. No.	Name	Name of School	Date of declaration of Head Pandit in-Chart
1.	Kshetrimaym Kesho Singh	Sangaiprou L.P. School, Zone I	2.3.2001
2.	Ahanthem Rajen Singh	Kadangbal L.P.S. School, Zone I	12.2.2001
3.	Heisnam Jibanolata Devi	Modern Primary School, Zone 1	8.3.2001
4.	Takhelmaym Umabati Devi	Ningthoubung Khunou L.P. School, Zone II	16.9.2000

5.	Thomchom Surendro Singh	Kontha "Girls" L.P School, Zone II	13.2.2001
6.	Khuraijam Biradhaja	Patsoi Khunou Primary School, Zone I	1.6.1995
7.	Thakhelmayum Umashashi Devi	Lamjaotongba "Girls" L.P. School, Zone II	30.12.1999
8.	Th. Ekashini Devi	Khongnangpehida Primary School Zone II	10.10.1999
9.	Takhelmayum Sunita Devi	Tharo Primary School, Zone II	30.6.2000
10.	Khulem Rajendra Singh	Khaidem Primary School, Zone I	20.2.1993
11.	Ningthoujam Kala Chand Singh	Patsoi Tulihal L.P. School	3.2.2001

12.	Brahamcharima Sunitibala Devi	Awang Leikinthabi Primary School, Zone I	12.3.2001
13.	Elangbam Radha Devi	Langthabal Khoubum L.P. School, Zone I	14.4.2000
14.	Lourembam Rajen Singh	Lairensajik L.P. School, Zone I	4.1.2001
15.	Yumnam Debenkumar Singh	Ibemcha Balika L.P. School, Zone - I	1.4.1978
16.	Khomdram Shyama Devi	Uripok "Girls" Primary School, Zone I	5.12.2000
17.	Khurayam Ibemhal Devi	Ibemcha Balika L.P School, Zone I	2.3.2001

18.	Golmei Maiten Kabuini	Konthoujam Maning Tribal Girls" L.P. School, Zone I	10.10.2000
19.	Khwairakpam Borinan: Singh	Moibung Khunou L.P. School, Zone I	10.10.2000
20.	Thiyam Manishangbi Devi	Kakching Loumi L.P. School, Zone III	30.3.1995
21.	Naorem Tabahal Devi	Kakching Girls" Primary School, Zone III	9.1.1998

5. In Judhistir Mohanty Vs. State of Orissa and Others, the Apex Court has pointed out and held thus :

"It is settled position that if the Government, for want of candidate, directs an Officer in the lower decree to perform the duties of the post in the higher cadre, during that period, necessarily, the incumbent would be entitled to the payment of the salary attached to the post if the incumbent has performed the duties in that post".

6. Once again the Apex Court in Selvaraj Vs. Lt. Governor of Island, Port Blair and Others, pointed out that if an employee is ordered to look upon the duties of higher post, the employee worked on higher post though temporarily and in officiating capacity, is entitled to salary attached to higher post. However, there are other provisions under the related F.R. under which the competent Authority may even fix the services allowances or in other words, charge allowances to be afforded to an

employee for holding the charge of a higher post or posts and if there is a condition in the appointment order then, it would be otherwise and as such, it is made clear that in absence of certain terms and conditions in making arrangement for allowing the employee to hold the charge of higher post; then in that case, the decision of the Apex Court as highlighted above shall come into operation. In the instance case, there is no specific order issued from the end of the respondents State under related F.R. 49 for such charge or service allowances as discussed above.

7. In view of the above position, this petitioner/Association has enforceable legal right in the instant case and they are entitled to get the benefit and enjoy the time scale of pay and allowances attached to the post of Head Pandit of L.P./Primary Schools. Accordingly, I direct the respondents/Authorities concerned to afford the time scale of pay and allowances attached to the post of Head Pandit of L.P./Primary Schools to these 21 in-charge Head Pandits right from the date of their assumption of charges as Head Pandits as highlighted in the foregoing paragraph of this order. It is made clear that the respondents/Authorities concerned shall make necessary payment of the arrear salary to these 21 members of the Petitioner/Association within a period of 3(three) months from the date of receipt of this order after proper adjustment of the salary so far drawn by them and that they shall be paid their regular monthly salary in the time scale of pay and allowances attached to the post of Head Pandit of pay and allowances attached to the post of Head Pandit of L.P./Primary Schools.

8. For the reasons, observations and directions made above, this Writ Petition is disposed of but, no order as to costs.