

**(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

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**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

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### **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 time 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 Jibanlata 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<br>Surendro<br>Singh         | Kontha<br>Girls"<br>L.P<br>School,<br>Zone<br>II        | 13.2.2001  |
| 6.  | Khuraijam<br>Biradhaja                | Patsoi<br>Khunou<br>Primary<br>School,<br>Zone<br>I     | 1.6.1995   |
| 7.  | Thakhelmayum<br>Umashashi<br>Devi     | Lamjaotongba<br>Girls"<br>L.P.<br>School,<br>Zone<br>II | 30.12.1999 |
| 8.  | Th.<br>Ekashini<br>Devi               | Khongnangpehida<br>Primary<br>School<br>Zone<br>II      | 10.10.1999 |
| 9.  | Takhelmaym<br>Sunita<br>Devi          | Tharo<br>Primary<br>School,<br>Zone<br>II               | 30.6.2000  |
| 10. | Khulem<br>Rajendra<br>Singh           | Khaidem<br>Primary<br>School,<br>Zone<br>I              | 20.2.1993  |
| 11. | Ningthoujam<br>Kala<br>Chand<br>Singh | Patsoi<br>Tulihal<br>L.P.<br>School                     | 3.2.2001   |

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

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

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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.