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## Haobam Tomba Singh Vs State of Manipur and Others

## Writ Petition (C) No. 973 of 2001

Court: Gauhati High Court (Imphal Bench)

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:

SI. Name Name of School Date of declaration of Head

No. Pandit in-Chart

1. Kshetrimaym Kesho Sangaiprou L.P. School, Zone I 2.3.2001

Singh

- 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 Ningthoubung Khunou L.P. 16.9.2000

Devi School, Zone II

5. Thomchom Surendro Kontha Girls" L.P School, Zone II 13.2.2001

Singh

6. Khuraijam Biradhaja Patsoi Khunou Primary School, 1.6.1995

Zone I

7. Thakhelmayum Lamjaotongba Girls" L.P. School, 30.12.1999

Umashashi Devi Zone II

8. Th. Ekashini Devi Khongnangpehidekpi Primary 10.10.1999

School Zone II

9. Takhelmaym Sunita Tharo Primary School, Zone II 30.6.2000

Devi

- 10. Khulem Rajendra Singh Khaidem Primary School, Zone I 20.2.1993
- 11. Ningthoujam Kala Patsoi Tulihal L.P. School 3.2.2001

Chand Singh

12. Brahamacharimayum Awang Leikinthabi Primary School, 12.3.2001

Sunitibala Devi Zone I

13. Elangbam Radha Devi Langthabal Khoubum L.P. School, 14.4.2000

Zone I

14. Lourembam Rajen Lairensajik L.P. School, Zone I 4.1.2001

Singh

15. Yumnam Debenkumar Ibemcha Balika L.P. School, Zone 1.4.1978

Singh - I

16. Khomdram Shyama Uripok Girls" Primary School, 5.12.2000

Devi Zone I

17. Khurayam Ibemhal Ibemcha Balika L.P School, Zone I 2.3.2001

Devi

18. Golmei Maiten Kabuini Konthoujam Maning Tribal Girls" 10.10.2000

L.P. School, Zone I

19. Khwairakpam Borinan: Moibung Khunou L.P. School, 10.10.2000

Singh Zone I

20. Thiyam Manishangbi Kakching Loumi L.P. School, 30.3.1995

Devi Zone III

21. Naorem Tabahal Devi Kakching Girls" Primary School, 9.1.1998

Zone III

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.