

Yumna Lokendro Singh (Dr.) and Others Vs V. Chhiver, IAS and Others

Court: Gauhati High Court (Imphal Bench)

Date of Decision: July 5, 2000

Acts Referred: Manipur Health Services Amendment Rules, 1936 & Rule 13A

Citation: (2003) 3 GLT 419

Hon'ble Judges: W.A. Shishak, J

Bench: Single Bench

Advocate: N. Kumajit Singh, for the Appellant; L. Nanda Kumar Singh, A.K. Soumendra, T. Nanda Kumar Singh, A. Mohendro Singh and N. Kotiswor Singh, for the Respondent

Final Decision: Dismissed

Judgement

W.A. Shishak, J.

W.P.(C) No. 1689/1999 was disposed of by this Court on 11.02.2000. The said petition was filed by (nine) Medical

Officers of the Government of Manipur. The Petitioners in this Contempt Petition contend that the Respondents have defied the direction issued by

this Court dated 11.02.2000 while disposing of writ petition No. 1689/1999.

2. Brief facts as regards the contentions of the writ Petitioners may be narrated. The Petitioners were sponsored by the Government of Manipur

for undergoing Post Graduate Courses in different Institutions of India in different disciplines. The duration of Post Graduate study is 3(three)

years. As per Medical Council of India norms as well as Central Council of Homeopathic the duration of Post Graduate Course is 3(three) years.

The Petitioner have undergone 3(three) years Post Graduate Course successfully and they have resumed/rejoined their duties as Medical Officers

in Manipur. The point that was raised in the writ petition was as regards payment of salary and allowances during the study leave. In this aspect

also it may be clarified that they were paid their normal salary and allowances for 2(two) years. The question, therefore, that was to be decided by

this Court in the writ petition was as regards the 3rd year. In other-words, the dispute was relating study leave for the 3rd year.

3. It was recorded by this Court in para 3 of the judgment that the learned Advocate General of Manipur appreciated the situation of the case and

he made a submission on that certain leave rules were standing in the way of releasing payment of salary and allowances to the writ Petitioners for

the 3rd year unless amendments were made to the existing rules. It was also submitted by the learned Advocate General that in order to avoid

undue hardship to the writ Petitioners, the State could resort to the power of relaxation in appropriate cases. This submission was made because

the Petitioners were sponsored candidates of the Government to undergo studies as stated above. Rule 13 A of Manipur Health Services

Amendment Rules, 1936 states:

13A. Training. A person appointed to the service may be considered for sponsorship for undergoing Post Graduate studies as the Government

may decide from time to time, subject to the following conditions:

- (i) completion of 5(five) years regular service;
- (ii) Posting and physical presence of three years in the hill areas or difficult rural areas.

There is no dispute that the writ Petitioners had fulfilled the conditions stated above. The note to Rule 13A further indicates that normally the

duration of the Post Graduate studies would be as laid down by the Medical Council of India or the Dental Council of India and such other

relevant Councils for S.M., Homeopathy and Nature Cure of the Government of India. It may be stated that the duration laid down by the Medical

Council of India for such Post Graduate Course is 3(three) years. The operative part of this Court's order was stated in para 5 is as follows:

Under the circumstances there cannot be any justification for not taking necessary steps by the state Government as per the law. However, since

the learned Advocate General has taken a fair stand, this Court refrains from passing any order at this stage with the firm expectation, that the State

Respondents shall take up the matter in the right direction as expeditiously as possible, preferably within a period 2(two) weeks from today so as

to enable the Petitioners to undergo their training without any financial constraints.

We the above observations this writ petition is disposed of however, no order as to costs. Liberty is granted to the Petitioners to approach this

Court if the occasion so demands.

4. As the State Government did not resolve the dispute as indicated in the above order, the writ Petitioners have approached this Court for

drawing up contempt proceedings against the Respondents. To be fair to all concerned I may state that on careful perusal of the aforesaid order

passed by this Court, it cannot be said that the writ petition was disposed of in any manner on merit, though the word disposal has been used. In

fact, it was clearly stated ""Liberty is granted to the Petitioners to approach this Court if the occasion so demands."" Therefore, if the State

Government did not take steps to redress the grievances of the writ Petitioners, the Petitioners ought to have approached this Court by a fresh

petition. Rightly or wrongly the Respondents have now given reasons for not being able to allow reliefs sought for by the writ Petitioners. The

issues raised by the Petitioners have not been determined and no enforceable directions, have been issued by this Court. In my view, therefore, it

will not be appropriate for this Court to decide the merit of the case in this contempt petition.

In the result, this petition is dismissed.