

W.P. (C) No. 868 of 2017

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

22-06-2018

Heard Ms. Th. Babita, learned counsel appearing for the petitioner and Shri Y. Ashang, learned Government Advocate appearing for the respondents.

By the instant writ petition, the petitioner has prayed for issuing appropriate direction to the respondents to implement/ comply with the order dated 06-06-2005 passed by the Hon'ble Gauhati High Court, Imphal Bench in writ petition being W.P.(C) No. 1166 of 2001.

The facts of the case, in short, are that the petitioner, who was a Bachelor Degree in Physical Education, was appointed as College Physical Instructor on adhoc basis vide order dated 25-01-1989 and her adhoc service was regularised vide order dated 31-08-1994. After the petitioner having been regularized, she was permitted to undergo Post-Graduate studies in Physical Education, which she completed in the year 1998.

The scales of pay of College Physical Instructor were revised from time to time, sometime, in the year 1990; in the year 1999 and in the year 2011. Despite the scales of pay of College Physical Instructor being revised from time to time, the petitioner was not given the revised scale which compelled her to approach the Hon'ble Gauhati High Court, Imphal Bench by way a writ petition being W.P.(C) No. 1166 of 2001 which was disposed of by the Hon'ble Gauhati High Court, Imphal Bench on 06-06-2005, the operative portion of which reads as under: –

“Be that as it may, this Writ Petition is disposed of with the direction to the respondents to consider the case of the petitioner for placing in the qualifying scale of M P Ed and Lecturer in Physical Education if she is eligible as per the requirement mentioned in the order of the

Contd.../-

Government of Manipur dated 04-12-1990 as soon as possible.

With the above observation and direction this Writ Petition is disposed of.”

Even though the Hon’ble Gauhati High Court, Imphal Bench had passed the said order in the year 2005, the same has not yet been complied with by the State respondents. The grievance of the petitioner is that pursuant to the order dated 04-02-2000 passed by the Hon’ble Gauhati High Court in various writ petitions filed by persons who were similarly situated with the petitioner, the Education Department, Government of Manipur issued an order dated 22-04-2000 thereby giving placement of 6 (six) Physical Instructor to different scales of pay.

Be that as it may, the State respondents are duty bound to implement the order dated 06-06-2005 passed by the Hon’ble Gauhati High Court, Imphal Bench, if the same had not been challenged by them. There is no any material on record produced by the State respondents to show that any appeal had been preferred against the said order dated 06-06-2005 which had attained finality. Moreover, since no counter has been filed in the writ petition, the averments made in the writ petition shall be deemed to have been admitted by the State respondents in terms of a catena of decisions rendered by the Hon’ble Supreme Court. Therefore, the instant writ petition deserves to be allowed and accordingly, the instant writ petition is allowed with the direction that the State respondents shall implement/comply with the order dated 06-06-2005 passed by the Hon’ble Gauhati High Court, Imphal Bench in writ petition being W.P.(C) No. 1166 of 2001 within a period of one month from the date of receipt of a copy of this order. There shall be no order as to costs.

JUDGE

Devananda