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WP(C) No.932 of 2018

Mrs S.Bimola Devi **Petitioner**

-Versus-

The Union of India **Respondent**

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
30.5.2019

Heard Mr.Ng.Jotindra, learned counsel for the petitioner. Also heard Mr.Moses Pao, appearing on behalf of Mr.S.Suresh, learned ASG for respondent Nos.1 and 2, Mr.Y.Nirmolchand, learned senior counsel for respondent No.3 and Ms.Sundari, learned GA for respondent Nos.4 and 5.

The petitioner was initially appointed on temporary basis as Clerk-cum-typist (VAB) for a period of three months in the office of the Manipur State Social Welfare Advisory Board, Imphal by an order dated 24.10.1985 issued by the Chairman, Manipur State Welfare Advisory Board. Thereafter, by another order dated 1.3.2013 issued by the Chairperson, Manipur State Social Welfare Board, the petitioner, on the recommendation of the DPC, was appointed as LDC of Manipur State Social Welfare Board, Imphal against the vacant post.

The case of the petitioner is that although she has been regularized as LDC under the Manipur State Social Board, no order has been passed with regard to counting the past service

of the temporary service of the petitioner for pensionary and retiral benefits in terms of the relevant rules.

It is the further case of the petitioner that similarly situated persons had approached to this Court by way of WP(C) No.547 of 2017 praying for counting the 50% of their casual service for pensionary and retiral benefits. The said writ petition was disposed of on 20.6.2018 and the said order reads as under:

“20.6.2018

Heard Shri N.Biren, learned counsel appearing for the petitioners and Shri Y.Nirmolchand, learned senior counsel appearing for respondent Nos.2 and 3.

The case of the petitioners is that although they have been regularized as Accountant Clerk/LDC in compliance with the court's order dated 21.7.1998, no separate order as regards the counting of 50% of their casual service for pensionary and retiral benefits was issued in terms of Rule 14 of the CCS (Pension) Rules, 1972.

Being aggrieved by the inaction on the part on the part of the respondents, the instant writ petition has been filed praying for issuing a direction to the respondents to count half/50% of the casual service rendered by them. On behalf of respondent Nos.2 & 3, an affidavit-in-opposition has been filed wherein it has been stated at para 6 as under:

“6. That, with reference to Paragraph No.5 of the Writ petition, the answering deponent submits that, the Central Social Welfare Board instructed vide letter No.FCWB-13/33/2017-CSWB/1347 dated 6.12.2017, the Manipur State Social Welfare Board to apprise and take appropriate action about the matter of the Petitioners. As such, the case of the petitioner for counting 50% of their casual service for pensionary and retiral benefits would be considered in terms of appropriate rules applicable to them and decision of the Hon'ble High Court which was dealt in the similar case.”

During the course of hearing, Shri N.Biren, learned counsel appearing for the petitioners submits that the writ petition can be disposed of in terms of the statement made by the Respondent Nos.2 & 3 at para 6 of their counter affidavit to which

Shri Y.Nirmolchand, learned Senior Counsel appearing for Respondent Nos.2 & 3 has no objection.

Accordingly, the instant writ petition stands disposed of with the direction that the respondents and in particular, Respondent Nos.2 and 3 shall take appropriate action and issue appropriate order in terms of the averment made by Respondent Nos.2 & 3 at para 6 of their counter affidavit within 3 (three) months from today."

In compliance of the order dated 20.6.2018 passed in WP(C) No.547 of 2017, the Chairperson, Manipur State Social Welfare Board, Imphal passed an order on 11.3.2019 which reads as under:

“
O R D E R
Imphal, the 11th March, 2019

No.2/1/87-SB(Pt-V)2017-18: Whereas, Shri Mandingbam Ibohanbi Singh and 4 (four) employees 1) P.Shakuntala Devi, 2) T.Ingocha Singh, 3) Th.Sunanda Devi and 4) N.Prema Devi of Manipur State Social Welfare Board, Manipur filed Writ Petition (C) No.547 of 2017 before the Hon'ble High Court of Manipur with a prayer for direction to Count half of 50% of their casual services rendered before their regularization/absorption in view of the Hon'ble High Court's order dated 13.2.2014 passed in WA No.48 of 2010.

Whereas, the Hon'ble High Court was pleased to dispose the Writ Petition (C) No.547 of 2017 on 20.06.2018 and the relevant portion of the Hon'ble High Court's Order is reproduced as hereunder:

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Accordingly, the instant writ Petition stands disposed of with the direction that the respondents and in particular, Respondent Nos.2 & 3 shall take appropriate action and issue appropriate order in terms of averments made by Respondent Nos.2 & 3 at para 6 of their Counter Affidavit within 3 (three) months from today."

Whereas, vide file No.43013/CSWB-13/33/2017-CSWB/1539 dated 16.11.2018, Assistant Director (SBA) intimated that State Board is competent authority in case of appointment of State Board employees.

Therefore, in view of the aforesaid facts and circumstances and in compliance of the Hon'ble High Court's order dated 20.06.2018 passed in WP(C) No.547 of 2017, it is hereby ordered that, half/50% of the Petitioner's casual service rendered before

absorption shall be counted for counting pensionary and retirement benefits in terms of Rule 14 of the CCS (Pension) Rules, 1972.

Learned counsel for the petitioner submits that the case of the petitioner can be considered in terms of the order dated 20.6.2018 passed in WP(C) No.547 of 2017 as well as the compliance order dated 11.3.2019.

Learned counsel for the respondents submits that the respondents may consider the case of the petitioner.

Accordingly, this writ petition is disposed of directing the respondents, particularly, respondent No.3 to consider the case of the petitioner for counting half/50% of the petitioner's temporary service rendered before regularization in terms of order passed by this Court on 20.6.2018 in WP(C) No.547 of 2017 as well as the compliance order dated 11.3.2019 passed by the Chairperson, Manipur State Social Welfare Board, Imphal within a period of two months from the date of receipt of a copy of the order of this Court.

The writ petition is accordingly disposed of.

JUDGE

Priyojit