

Serial No. 19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 277 of 2017

Date of Decision: 25.10.2019

Shri. Aynal Hoque Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge

Appearance:

For the Petitioner(s)/Appellant(s) : Mr. S.A. Sheikh, Adv.
For the Respondent(s) : Mr. H. Abraham, GA. for R 1-8.
None for R 9 & 10.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

ORAL

1. The brief facts of the case is that the petitioner was appointed as a second Office Assistant in the year 1988 by the Managing Committee of Bhaitbari Higher Secondary School against the post sanctioned by the Government vide order dated 31.01.1986. The petitioner after rendering about 22 years of continuous service then sought for voluntary retirement in the year 2009 which was allowed by the Government vide order dated 07.12.2009 and as such, the petitioner was released from service on 02.01.2010 by the respondent No. 10.

The petitioner thereafter had applied for payment of gratuity before the competent authority, but however the service book and other connected papers were returned vide impugned letters dated 28.05.2015 and 19.08.2016 on the ground that the benefit of Death Cum Retirement gratuity of the School employees who retires voluntarily came into force only on 06.04.2015 whereby, voluntary retirement was included in the said DCRG Rules, 1985.

Being aggrieved by the non-payment of the DCRG, the writ petitioner is before this Court by way of this instant writ petition.

2. Mr. S.A. Sheikh, learned counsel on behalf of the petitioner has drawn the attention of this Court to the impugned letters which finds place at Annexure-A-9 and Annexure-A-12, dated 28.05.2015 and 19.08.2016 respectively, wherein it has been stated that the DCRG is not admissible to the petitioner as he had retired voluntarily on 02.01.2010 before the notification dated 06.04.2015 came into force. Learned counsel submits that the classification as made out is unjustified, inasmuch as, there has been cases in earlier instances when employees who retired prior to 2015 were afforded the DCRG as entitled, against the post they had been serving. He lastly submits that there being no ground for the denial of DCRG to be paid to the petitioner, the impugned orders are liable to be set aside and the respondents be directed to release the payments as admissible.

3. Mr. H. Abraham, learned GA on behalf of the respondent No. 1-8 on the last occasion i.e. on 01.10.2019 had sought time to obtain instructions on this aspect as to whether the DCRG as claimed by the writ petitioner is admissible, inasmuch as, the petitioner had voluntarily retired before the coming into force of the notification dated 06.04.2015, wherein the word “retires voluntarily or compulsorily” had been inserted in the DCRG Rules.

Today, learned GA has fairly submitted before this Court that on instructions received, the case of the petitioner shall be considered for release of the said DCRG against the post of Office Assistant/LDA, a post which has been duly sanctioned by the Government.

4. Learned counsel for the petitioner has no objection to the said submissions advanced by the learned GA and further submits that the writ petition may be closed at this stage with a direction that the respondents consider the release of the DCRG dues along with interest as admissible against the post of Office Assistant/LDA.

5. Learned GA at this juncture submits that the writ petitioner had also served against the post of UDA which is not a sanctioned post, and the State respondents have no knowledge about the same as the writ petitioner had been placed in the post by the Managing Committee i.e. respondent No. 9 & 10. It is also noted that the respondent No. 9 & 10 inspite of service of notice has chosen not to appear before this Court. Accordingly, the writ petition is disposed of with a direction that the respondents consider the grant of DCRG to the writ petitioner against the sanctioned post he had been serving as Office Assistant/LDA and the payment, dues and interest as admissible be made as expeditiously as possible.

6. With the above noted directions, the writ petition is accordingly disposed of.

Judge

Meghalaya
25.10.2019
"D. Nary, PS"

