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**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

**WP(C) No. 85 of 2022
(Through Video conference)**

M.C. Santosh, aged about 60 years, S/o (Late) M. Nilo Singh of Wangkhei Yonglan Leirak, P.O & P.S. Porompat, Imphal East District, Manipur, working as Legal officer, Secretariat, Revenue Department, Government of Manipur.

...Petitioner

-Versus-

1. The State of Manipur represented by the Principal Secretary /Commissioner/ Secretary (Revenue), Government of Manipur, office at Old Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin-795001.
2. The Directorate of Settlement and Land Records, Manipur, office at Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.

.....Official Respondents

BEFORE
HON'BLE MR. JUSTICE MV MURALIDARAN
31.01.2022

[1] I heard Mr. M. Hemchandra, learned senior counsel for the petitioner and Mr. Sh. Shyam Sharma, learned GA for the respondents.

[2] The writ petitioner has filed the present writ petition seeking the prayer as follows :-

- “(i) to admit the present writ petition.*
- (ii) to issue rule nisi calling upon the respondent to show cause as to why prayer made by the petitioner shall not be granted in the fact & circumstances of the present case.*
- (iii) to issue a writ in the nature of mandamus/certiorari or any other appropriate writ/order/direction directing the respondents to allow the humble petitioner to continue in service as OSD/Legal post-retirement as has been done in case of one Shri Ch. Rabikumar Singh, OSD/Legal in the Revenue Department, Government of Manipur, in view of the facts and circumstances of the present petition.*
- (iv) to issue a writ in the nature of mandamus/certiorari or any other appropriate writ/order/direction directing the respondents to consider and dispose of the representation/application dated 20.01.2022 (**AT ANNEXURE-A/13**) by issuing reason and speaking order favourably within a stipulated period of time, in*

view of the facts and circumstances of the present petition.

(v) if no cause is shown or insufficient cause is shown, make the rule absolute.

(vi) to call for the entire relevant records.

(vii) to pass any other/writ / directions/order which the Hon'ble Court deem fit and proper in the facts and circumstances of the present case."

[3] When the matter is taken up, Mr. Hemchandra, learned senior counsel for the petitioner has argued that as per the order dated 07.01.2022 the writ petitioner by namely, Shri Maibamcha Santosh, Legal Officer service is stands terminated w.e.f. 31.01.2022 (AN).

[4] Mr. Hemchandra, learned senior counsel further argued that similar nature of this writ petitioner, one Mr. Chabungbam Rabikumar Singh who originally appointed as Legal Officer in the Directorate of Land Records, Manipur was directed to be retired on 30.11.2018 (AN) and his service also stands terminated w.e.f. 30.11.2018 (AN). Before his retirement the said Mr. Rabikumar was made his representation to its department with a request to extend his service.

[5] Considering the request made by Mr. Rabikumar who retired on 30.11.2018 the Chief Secretary and Secretariat Cabinet has passed an order on 02.02.2019 in which the Cabinet will be held on 04.02.2019 in the Cabinet Hall of the Minister's Secretariat at 4:30 P.M. to discuss the following agenda No. 4 i.e. the re-engagement of Mr. Ch. Rabikumar Singh, (Retd.) Legal Officer of Revenue Department. Accordingly, his service was reengaged by the authority concerned.

[6] Therefore, the learned senior counsel for the petitioner represented that this petitioner also made representation to the respondents authority on 20.01.2022 with a request that he may be reengaged/extended subsequent to his retirement but his representation dated 20.01.2022 was not considered. Therefore, the petitioner has approached this Court and seeking the prayer as stated above.

[7] By narrating the above, Mr. Hemchandra, the learned senior counsel for the petitioner prayed this Court that though the petitioner was permitted to retire on 31.01.2022 (i.e. today) the respondents may be directed that the representation dated 20.01.2022 may be considered by the respondents authority within a shorter period of time and the writ petition may be disposed of accordingly.

[8] Mr. Sh. Shyam Sharma, learned GA for the respondents represented that before this Court that though as per Rule, the petitioner ought to have retired on 31.01.2022 and there was no rule in existence for reengagement of the petitioner after his service. Therefore, the writ petitioner is not entitled to seek any reengagement of his service.

[9] Mr. Sh. Shyam Sharma, learned GA for the respondents to support his case produced the judgments passed by this Court in WP(C) No. 638 of 2020 dated 22.01.2021 which was continued in WA No. 5 of 2021 dated 24.02.2021 in which the reengagement of the employee is contravention of the earlier policy decision of the State Government dated 20.04.2000 and 11.05.2017 which imposed a complete ban on extension of service/re-employment of government servant beyond the age of superannuation and hence, this writ petitioner is not entitled for extension of service.

[10] In the said writ petition this Court has passed the order as follows :

“[32] Moreover, the engagement of the respondent No. 4 as Director of Medical and Health Services, Manipur on contract basis after his retirement is also totally in contravention of the earlier policy decision of the State Government

dated 20.04.2000 and 11.05.2017, which imposed a complete ban on extension of service/re-employment of government servant beyond the age of superannuation.

In view of the above, this Court has no hesitation to hold that the engagement of the respondent No. 4 as Director of Medical and Health Services on contract basis after his retirement on attaining the age of superannuation is not only in contravention of the Statutory Rules under FR 56 (d) and the earlier policy decision of the State Government imposing complete ban on extension of service/re-employment of government servant beyond the age of superannuation, but it also infringes the fundamental right of the petitioner guaranteed by Article 14 and 16 of the constitution. Accordingly the engagement of the respondent No. 4 as Director of Medical and Health Services, Manipur on contract basis is quashed and set aside.

[33] *The respondents are directed to consider the case of the petitioner for his appointment as Director of Medical and Health Services, Manipur, within a period of 2 (two) weeks from the date of the receipt of this order. This direction has been given keeping in view that the writ petitioner is also going to retire from service by the end of February 2021.*

With the above directions and observations, the present writ petition is allowed. Parties are to bear their own costs.”

[11] Mr. Sh. Shyam Sharma, learned GA also represented that against the order passed by this Court in the above writ petition the petitioner in that writ petition has filed the writ appeal before the Hon’ble Division Bench in WA No. 4 of 2021 and the Government of Manipur filed in W.A. No. 5 of 2021 which was also confirmed by the Hon’ble Division Bench on 24.02.2021.

[12] Therefore, Mr. Sh. Shyam Sharma, learned GA for the respondents submitted that as per the above judgments and the Cabinet decisions dated 20th April, 2000 and 11.05.2017 the petitioner have no right to reengage of his service and hence, he prayed this Court to dismiss the writ petition.

[13] Since both the counsel for the petitioner as well as the respondents agreed to dispose of the writ petition at the admission stage itself without going into the merits and demerits of the case and hence, the learned senior counsel for the petitioner prayed this Court to dispose the writ petition by giving direction to the respondents to pass appropriate orders on his representation dated 25.01.2000 in which the petitioner will be satisfied. Mr. Shyam Sharma, learned GA also agreed for the same.

[14] In the above circumstances and hearing of both the counsel, without going into the merits and demerits of the case, I am inclined to pass the following orders :

- a) *the writ petition is disposed of.*
- b) *the respondent No.1 i.e., State of Manipur represented by the Principal Secretary / Commissioner / Secretary (Revenue), Government of Manipur, office at Old Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin-795001 is directed to consider and to pass appropriate speaking orders on the representation dated 20th January, 2022 in the light of the order dated 02.02.2019 in respect of one Mr. Chabungbam Rabikumar Singh and pass appropriate speaking order.*
- c) *the said exercise shall be done within a period of 1 (one) week from the date of receipt of a copy of this order.*

[15] Registry is directed to issue copy of this order to both the parties through their WhatsApp/e-mail.

JUDGE

Sushil