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Item No. 34

IN THE HIGH COURT OF MANIPUR AT IMPHAL

CONT.CAS(C) No. 82 of 2022

Loktak Development Authority Workers' & Employees' Union, through the General Secretary Shri Pukhrambam Shyamkumar Singh, aged about 54 years, S/o (L) P. Ibohah Singh, resident of Ningthoukhong Ward No. 2, P.O. Bishnupur, P.S. Bishnupur and District Bishnupur, Manipur- 795126.

Petitioner

Vs.

1. Shri Rajesh Kumar, IAS, Chief Secretary, Govt. of Manipur, Old Secretariat Building, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur- 795001.
2. Shri Rajesh Kumar, IAS, Chief Secretary, (Finance), Govt. of Manipur, Old Secretariat Building, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur – 795001.
3. Shri M.H. Khan, IAS, Additional Chief Secretary (Forests, Environment and Climate Change), Govt. of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur-795001.
4. L. Bhagat Singh, Project Director, Loktak Development Authority, North Block, Near 2nd M.R. Gate, P.O. Imphal, P.S. Imphal, District Imphal West, Manipur – 795001.

Respondents

BEFORE

HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL

30.11.2023

[1] Mr. B.P. Sahu, learned senior counsel, appears on behalf of the petitioner. Mr. L. Raju, learned counsel, appears on behalf of respondent Nos. 1 & 2; Mr. N. Umakanta, learned counsel, appears on behalf of respondent No. 3; and Mr. H. Kenajit, learned counsel, appears on behalf of respondent No. 4.

[2] The present contempt petition has been instituted on behalf of the Loktak Development Authority Workers' & Employees' Union, seeking initiation of contempt proceeding against the respondent on the ground that the latter has

wilfully disobeyed this Court's order dated 29.11.2021 passed in W.P. (C) No. 72 of 2021; and consequential action in accordance with law.

[3] At the outset, it is observed that the learned Single Judge of this Court disposed of the said W.P. (C) No. 72 of 2021 vide order dated 29.11.2021 in the following terms:-

"[4] When the matter is taken up today, Mr. BP Sahu, learned senior counsel for the petitioner represented that though the petitioner sought for the prayers in the writ petition which is mentioned above, the para No. 5 of the counter affidavit filed by the respondent No. 3 dated 26.10.2021 is stated as below:

"5. That, it is humbly submits that it is not to say that the reliefs as sought for in the writ petition are not justifiable. Forests, Env't. & Climate Change Department, Government of Manipur has taken necessary steps with regard to grant/adoption of Revised pay under the Manipur Services (Revised Pay) Rules, 2019 to the regular & work charged employees of Loktak Development Authority. There is no question of depriving rights and violation of principles of Natural Justice as alleged in the writ petition by the petitioners. But as the procedure in the matter is not some random exercise."

[5] Mr. B.P. Sahu, learned counsel for the petitioner represented that Para No. 5 of the counter affidavit filed by the respondent No. 3 dated 26.10.2021 may be recorded and suitable direction may be issued to the respondent Nos. 2 & 3 to act as per the Para No. 5 of the counter affidavit filed by the respondent No. 3 within a stipulated period of time.

[6] Mr. Lenin Hijam, learned Addl. A.G. who appeared for all the respondents represented that though the respondent Nos. 3 & 4 have filed separate counter affidavit but the Para No. 5 of the counter affidavit filed by the respondent No. 3 will clearly established the stand of the respondents and hence as per the request made by Mr. B.P. Sahu, learned senior counsel for the petitioner, this writ petition may be disposed of by issuing direction to the respondent Nos. 2 & 3 to act upon as per the Para No. 5 of the counter affidavit of the respondent No. 3.

[7] Therefore, considering the arguments advanced by both the counsels and the Para No. 5 of the counter affidavit filed by the

respondent No. 3 which is stated above, I am inclined to pass the following orders:

(a) this writ petition is disposed of.

(b) the respondent Nos. 2 & 3 are directed to act upon as per the Para No. 5 of the counter affidavit filed by the respondent No. 3 dated 26.10.2021.

(c) the said exercise shall be done within a period of 6(six) months from the date of the receipt of a copy of this order."

[4] A plain reading of the above extracted paragraphs leaves no manner of doubt that the direction issued to the respondent was to act upon the paragraph No. 5 of the counter affidavit filed by the official respondent dated 26.10.2021 as alluded to in paragraph No. 4 of the said order.

[5] It would therefore be necessary to once again consider the subject paragraph No. 5 of the counter affidavit filed by the official respondent, which is extracted in toto herein below as follows:-

"5. That, it is humbly submits that it is not to say that the reliefs as sought for in the writ petition are not justifiable. Forests, Env't. & Climate Change Department, Government of Manipur has taken necessary steps with regard to grant/adoption of Revised pay under the Manipur Services (Revised Pay) Rules, 2019 to the regular & work charged employees of Loktak Development Authority. There is no question of depriving rights and violation of principles of Natural Justice as alleged in the writ petition by the petitioners. But as the procedure in the matter is not some random exercise."

[6] A reading of the above extracted paragraph demonstrates that the Government of Manipur had asseverated that they have taken necessary steps with regard to the grant/adoption of Revised Pay under the Manipur Services (Revised Pay) Rules, 2019 to the regular & work charged employees of the Loktak Development Authority.

[7] The said order dated 29.11.2021 as aforementioned axiomatically directed the official respondents to act in accordance with the undertaking given by the latter in the said paragraph No. 5 of the counter affidavit filed by them.

[8] The official respondent invites the attention of this Court, in this behalf, to the order dated 02.11.2022 rendered by the Deputy Secretary (Forest, Env't. & CC) in the name of the Governor of Manipur, and in particular, the relevant paragraph reporting compliance, which reads as follows:-

"Now, therefore, in view of the instructions and observations made by the Finance Department, Government of Manipur, the Order of the Hon'ble High Court of Manipur in W.P. (C) No. 72/ 2021 (Loktak Development Authority Workers' & Employees' Union vs. State of Manipur & Ors.) dated 29.11.2021 is complied with by extending the benefits of the Manipur Services (Revised Pay) Rules, 2019 to the employees of Loktak Development Authority, Manipur subject to the fulfillment of formalities/conditions imposed by the Finance Department in this regard."

[9] Upon reading the above it is evident that steps have irrefutably taken by the official respondent, as elaborated in the above extracted paragraph; extending the benefits of Manipur Services (Revised Pay) Rules, 2019, to the employees of the Loktak Development Authority, Manipur, subject to fulfillment of formalities/conditions.

[10] In this view of the matter, in my considered view, the direction issued by this Court vide paragraph No. 7(b) in the order dated 29.11.2021 in W.P. (C) No. 72 of 2021 has been faithfully complied with.

[11] However, Mr. B.P. Sahu, learned senior counsel appearing on behalf of the petitioner, invites my attention to paragraph No. 24 of the decision of the Hon'ble Supreme Court in ***Bihar State Government Secondary School***

Teachers Association vrs. Ashok Kumar Sinha & ors. reported as **(2014) 7 SCC 416**, to contend that, the official respondents have amended the subject rules so as to nullify the direction issued by this Court vide the said order dated 29.11.2021. In other words, it is the petitioner's contention that the official respondents have deliberately modified the subject rules so as to deny them the benefit of the direction issued by the Court vide the said order dated 29.11.2021.

[12] I have given my anxious consideration to the submission made on behalf of the contempt petitioner in the context of the dictum of the Hon'ble Supreme Court in ***Bihar State Government Secondary School Teachers Association (supra)*** and in particular paragraph Nos. 17 & 24 thereof, and find myself unable to agree with the petitioner, for the reason that, in that case the direction issued by the High Court related to the merger of two cadres and the rules had been amended so as to effectively nullify the implementation of the result of merger; which is not at all the factual matrix before this Court in the present contempt petition.

[13] It is an admitted position that the rules in question were neither argued by the petitioner, nor considered, at the time this Court disposed of the petition instituted on behalf of the contempt petitioner vide the said order dated 29.11.2021. The directions issued were premised entirely on the said paragraph No. 5 of the counter affidavit filed on behalf of the official respondent to the effect that the writ petitioner would be entitled to the grant/adoption of Revised Pay under the Manipur Services (Revised Pay) Rules, 2019 in terms thereof. In this behalf, it would further be relevant to observed that in ***Bihar State (supra)***, the Hon'ble Supreme Court further clearly expressed the view that, the scope and ambit of a contempt petition is limited to the scrutiny of the steps taken by the alleged

contemnor which only may be examined in contempt proceedings. The Hon'ble Supreme Court further held that the Court is not supposed to go into the nitty-gritty of the various measures taken by the official respondents; and will interfere to limited extent of examining the issue whether the implementation of the direction has had the effect of nullifying the direction issued by the Court in the proceeding out of which the alleged contempt arises.

[14] In my view, the petitioner has not been able to establish that there is any wilful and contumacious disobedience of the direction issued by this Court vide order dated 29.11.2021, inasmuch as, the official respondent has complied in form and substance with the direction contained in paragraph 7(b) of the said order dated 29.11.2021, as clearly and unequivocally recorded in the said order dated 02.11.2022 issued in the name of the Governor of the State of Manipur.

[15] The present petition cannot be gone into to examine the substantive grievances that have been articulated therein by way of the contempt proceeding.

[16] In this view of the matter, whilst reserving liberty to the petitioner to initiate appropriate proceedings, if any, in accordance with law, in relation to the grievances sought to be raised in the present contempt proceeding; the same is dismissed as being devoid of merit.

[17] The pending applications are also disposed of.

CHIEF JUSTICE

Indrajeet