

**Serial No. 01**

**Supplementary List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 346 of 2018

Date of Decision: 24.02.2023

Smti. Violin Kharbani

Vs.

State of Meghalaya & 5 Ors.

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. S. Wahlang, Adv.

For the Respondent(s) : Mr. K.P. Bhattacharjee, GA. (For R 1)

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|-----|--|--------|
| i)  | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press:           | Yes/No |

**JUDGMENT**

1. This petition under Article 226 of the Constitution of India was filed by the petitioner Damilton Hoojon (since deceased) now represented by his wife who was duly substituted in his place vide order dated 08.11.2021 passed by this Court in MC[WP(C)] No. 97 of 2021.

2. The petitioner (original) being aggrieved by the respondent authorities inaction in release of his arrear pay and allowances, in spite of

having made representation dated 13.02.2018 to this effect, has accordingly approached this Court with prayer for a mandamus to be issued thereupon.

3. The brief background of the case is that the petitioner during his lifetime was working in the Office of the District Medical & Health Officer, West Khasi Hills District under the Directorate of Health Services, Government of Meghalaya in the post of a Dresser.

4. Vide order dated 12.08.2005 issued by the respondent No. 5, the petitioner was placed under suspension as per the related rules under the Meghalaya Fundamental Rules and Subsidiary Rules, 1984.

5. The Department did not initiate proper departmental proceedings against the petitioner for about 10 years since he was suspended which compelled him to move this Court by way of a writ petition being WP(C) No. 190 of 2015. This Court after hearing the parties had disposed of the said writ petition vide order dated 03.11.2015, inter alia, quashing the said suspension order dated 12.08.2005 and had also directed the reinstatement of the petition within 45 days of the receipt of the said judgment and order.

6. The Department in compliance with the said Order of this Court dated 03.11.2015 has then issued an Order dated 08.12.2015 directing reinstatement of the petitioner as a Dresser and has posted him at his original place of posting at Mawkyrwat CHC. However, in the said order, there is a remark that no arrear pay and allowances shall be paid to the petitioner for the present.

7. It may also be mentioned that the matter has transpired thus on account of the fact that initially, the petitioner was suspended as he was implicated in a criminal case which is pending adjudication before the competent court and inspite of his reinstatement, presumably because of non-prosecution departmentally, the criminal case was still pending.

8. In due course, the said criminal proceedings against the petitioner being GR Case No. 76 of 2005 in the Court of the Chief Judicial Magistrate, Nongstoin, West Khasi Hills District was disposed of vide order dated 04.01.2018 whereby the petitioner was acquitted and discharged from all liabilities in the case.

9. Armed with the said order of acquittal, the petitioner then approached the respondent/Director of Health Services (MI), Government of Meghalaya with the representation dated 13.02.2018 seeking release of all his back wages including arrear pay and allowances.

10. Without firmly replying to the said representation of the petitioner, a communication being No. NST/AC-3/2018-19/4695 dated 04.09.2018 was sent by the District Medical & Health Officer, West Khasi Hills, Nongstoin to the Director of Health Services (MI), Meghalaya, Shillong seeking time barred sanction and allotment of fund for the Pre-Audit Bill for Arrear Pay & Allowances of the petitioner. However, the Director of Health Services (MI) in his reply to the same vide letter No.HSM/EST-NGZT/PM/2/2014/15907

dated 13.09.2018 has in effect, declined the request on the ground that in the Court's Order it is mentioned that arrear pay and allowances may not be paid and further since it is not clear whether to treat the suspension period as on duty or not. Hence this petition.

11. The State respondent has filed its affidavit-in-opposition refuting the claims made by the petitioner, however, in course of hearing of this matter, submission was made by the learned Government Advocate, Mr. K.P. Bhattacharjee to seek fresh instructions in this regard and to file such instructions by way of an additional affidavit.

12. On being so directed, the additional affidavit was then filed on 22.02.2023 and when the matter came up for hearing, Mr. Bhattacharjee has fairly submitted that the case of the petitioner (substituted) has been looked into and some time is required to come to the correct calculation of the entitlement of the petitioner's deceased husband as per law and laid down norms.

13. Mr. Bhattacharjee has submitted that this is required because of the fact that the deceased husband of the present petitioner was working as an Adhoc Employee during his lifetime and his services was regularised only after approval of the Government based on the Cabinet decision dated 13.03.2022. Therefore, even though the respondents have agreed to consider the prayer of the petitioner, the process to finalise the same would take some

time for which, six months' time was sought for.

14. For better elucidation, the relevant paras 3, 4 & 5 of the Additional Affidavit-in-Opposition dated 22.02.2023 are reproduced herewith as :

*“3. That it is respectfully submitted that the grievance of the petitioner has already been taken up with the concerned **District Medical & Health Officer, Nongstoin and Mawkyrwat.***

*Further, the petitioner's husband (L) **Damilton Hoojon** was an **Adhoc Employee** and his regularisation was recently approved by the **Cabinet decision** only on **13.3.2022** and **vide Government letter No.Health.39/2021/Pt/837 dated 28.6.2022.***

*4. That the deponent respectfully submits that the office procedure is likely to take some time owing to the fact that previous districts have been bifurcated. Further, proper calculations will also have to be arrived at with regard to the deceased incumbent's entitlement as per law and the laid down norms and instructions of the Personal and Administrative Reforms Department, Government of Meghalaya.*

*5. That the deponent therefore humbly prays this Hon'ble Court may kindly and graciously be pleased grant some time to settle the claim of the petitioner.”*

15. From the above, this Court need not go into the argument advanced by the petitioner as the respondent authorities have clearly conceded to the prayer made in this petition as pointed out above.

16. This petition is therefore disposed of with a direction to the respondent authorities to clear all the pending dues of the deceased husband of the petitioner including arrear pay and allowances due and payable to the deceased, within a period of six months from the date of this Order. It is made clear that in deference to the prayer of the learned GA this direction is issued,

but no extension will be allowed beyond the six months period stipulated.

17. Registry is directed to cause issue of copy of this Order to the learned GA, Mr. K.P. Bhattacharjee, for onward transmission to the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong to ensure due compliance.

18. Petition disposed of. No costs.

**Judge**

Meghalaya  
24.02.2023  
"Tiprilynti-PS"

