

# **IN THE HIGH COURT OF MANIPUR**

## **AT IMPHAL**

### **WP(C) No. 17 of 2023**

Shri Laishram Chaobhal Singh, aged about 60 years, S/o (Late) L. Nila Singh, resident of Awang Jiri, P.O. & P.S. Nambol, District Imphal West, Manipur.

***..... Petitioner/s***

***- Versus -***

1. The State of Manipur represented by the Commissioner/Secretary (PHED), Government of Manipur, P.O. & P.S. Imphal, District Imphal West, Manipur, (Secretariat Block)-795001.
2. The Chief Engineer, Public Health Engineering Department (PHED), Government of Manipur, P.O. Imphal, P.S. City Police, Imphal West District, Manipur, PWD Complex at Khuyathong, Manipur-795001.
3. The Principal/Special Secretary (Finance), Government of Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur (Secretariat Block)-795001.
4. The Joint Secretary (Pension Cell), Government of Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur (Secretariat Block)-795001.
5. The Principal Accountant General (A & E), Manipur, Imphal at Babupara P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

***.....Respondent/s***

**B E F O R E**  
**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner	::	Mr. Ch. Robinchandra, Adv.
For the respondents	::	Mrs. Ch. Sundari, G.A. & Mr. S. Samarjeet, Sr. PCCG
Date of hearing	::	25.04.2024
Date of Judgment & Order	::	30.04.2024.

**JUDGEMENT & ORDER (CAV)**

[1] Heard Mr. Ch. Robinchandra, learned counsel for the petitioner, Mrs. Ch. Sundari, learned G.A. for the State respondent and Mr. S. Samarjeet, learned Sr. PCCG for the Principal Accountant General.

[2] The fact in brief leading to the present case is that the petitioner was initially appointed as Muster Roll worker in the department of PHE, Government of Manipur. As per the policy framed by the State Government for Casual/Muster Roll Workers and Work-charged Employees published on 16.04.1997, those Casual/Muster Roll Employees, who had completed 10 years' service as on 16.04.1997, would be converted into Work-Charged establishment and those Work-charged Employees, who had completed 10 years as on 16.04.1997, would be converted into regular Employees. In terms of the said policy, the PHE, Government of Manipur converted 888 Muster Roll Workers, who had completed 10 years continuous service in the Muster Roll Service converted into Work-charged establishment in which the petitioner appeared at Serial No. 621 of Technical Jugali.

**[3]** The petitioner submitted an application dated 22.01.2021 to the Commissioner (PHED), Government of Manipur requesting for confirmation of his Work-Charged Service. However, the Chief Engineer, PHED, Manipur issued a letter dated 10.02.2021 to the petitioner stating that PHE Department did not have any permanent post for the Work-Charged establishment and there was no vacancy for the Work-charged establishment. Further, it is stated that those incumbents who were converted from Work-charged establishment would stand automatically abolished as and when converted incumbents retired from service on attaining the age of superannuation.

**[4]** The petitioner rendered his Work-Charged service for 22 years and 20 days and retired from the service w.e.f. 31.01.2021 on attaining the age of superannuation. Vide order dated 26.02.2021 issued by the Chief Engineer, PHED, Government of Manipur, the service of the petitioner was terminated along with other incumbents.

**[5]** The Government of Manipur: Secretariat Finance Department (PIC) published a Second Amendment of the Terminal Benefits Rules, 1978 called the Terminal Benefits for Work-charged Employees of PWD/IFCD/PHED/MI and Electricity (Second Amendment) Rules, 2020 stating that the entitlement of pension to a permanent Work-charged Employees, who retired on attaining the age of 55 years for not less than 20 years on the date of publication of the Rules in the official Gazette. However, the Gazette was published on 07.01.2021 and the petitioner was retired on 31.01.2021.

**[6]** Vide memorandum dated 25.05.1979 issued by the Director General of Works, CPWD, Government of India, New Delhi wherein it is stated

that all categories of Work-charged Employees should be a uniform period of probation of one year and as per the Government of India decision dated 28.03.1988, the persons who completed probation in the first appointment will be declared as permanent, the present distinction between permanent and temporary employees for grant of pension and other pensionary benefits will cease to exist. Since, the petitioner had completed 22 years working as Worked-charged Employee, he is entitled for pension and other retirement benefits under the Terminal Benefits of PWD/IFCD/PHED/MI and Electricity Manipur, Rules, 1978 and its subsequent Second Amendment Rules, 2020.

[7] Respondent Nos. 1 & 2 filed counter affidavit wherein it is stated that the petitioner was converted to Work-charged Employees from Muster Roll/Casual vide order dated 11.01.1999 and as per the order dated 19.03.2001, conversion of Casual Staff to Work-charged and Work-charged Staff to regular establishment notified by the State Government is one time measure. It is further stated that the petitioner is neither permanent Work-charged nor is confirmed and as such, any pensionary benefits, etc cannot be arise. It is also stated that Section 6 of the Terminal Benefits for Work-charged Employees of PWD/IFCD/PHED/MI/Electricity Manipur Rules, 1978 (the Terminal Benefits Rules, 1978) provides that retirement benefits to be given only to the permanent Work-charged Employees. It is stated that there is no existing policy/rule of the State Government for conversion of Work-charged employees to permanent Work-charged establishment and for regularization and the scheme for conversion/regularization as notified by the Department of personnel & Administrative Reforms (Personal Division), Government of

Manipur (DP) on 16.04.1997 was a one time measure. Vide O.M. dated 22.01.2001, confirmation of Work-charged Employee should be made against the permanent posts in the Work-charged Establishment and there is no confirmation of the Work-charged Employee, the petitioner cannot enjoy the pensionary benefits. It is prayed that writ petition be dismissed as being devoid of merit.

**[8]** Respondent No. 5 filed counter affidavit stating that conversion of Casual/Muster Roll Worker into Work-charged is under the Department of PHE, Manipur and it was a policy decision of the concerned Department. It is stated that the answering respondent has nothing to comment as framed the rule called the Terminal Benefits for Work-charged Employee of PWD/IFCD/PHED/MI & Electricity Manipur Rules, 1978 and its subsequent amendments are dealt by the concerned Department (PHED). The pension proposal submitted by the concerned Department is forwarded to the Office of the Accountant General (A & E), Manipur after due verification for finalizing the pensionary benefits as Relevant Rules. It is prayed that writ petition be dismissed as being devoid of merit.

**[9]** In the counter affidavit of Respondent No. 5, it is also stated that the Principal Accountant General/Accountant General has nothing to implement the decisions that are not in consonance with rules, regulation and Government Instructions and the power to relax rules or waive any condition in the rules/instructions rests solely with the State Government. Hence, the Principal Accountant General/Accountant General responsible for a function in which he does not have any say, except for mere compliance, is not as per the

provisions. The Office of the Principal Accountant General (A & E), Manipur only follows the orders of the State Government and the Rules Governing the pensionary benefits. It is stated that confirmation/regularization of the Work-charged Employee of the State Government is the sole responsibility of the Administrative Department of the State Government and pension papers, Service Books and other related documents in respect of the petitioner as required under Rule 54(6) of MCS (Pension) Rules, 1977 are yet to be received in the Office of the Principal Accountant General (A & E), Manipur from the Department of personnel (Pension Cell), Government of Manipur. As such, there is no action pending on the part of the Principal Accountant General (A & E), Manipur.

**[10]** In the rejoinder affidavit it is state that the petitioner's Casual/Muster Roll service was converted to the Work-charged Establishment vide order dated 11.01.1999 and his Work-charged service was covered by the Terminal Benefits for the Work-charged Staffs of PWD/IFCD/PHED/MI and Electricity Manipur Rules, 1978 and its subsequent Amendment Rules which was framed under Article 309 of the Constitution of India. Rule 5 of the Rule itself clearly mentioned that 413 Work-charged Employees have become permanent so far in different categories of Work-charged posts in the PWD/IFCD/PHED/MI/Electricity, Manipur. It is stated that Clause (1)(a) of Rule 6 of the Terminal Benefits for Work-charged Employees of PWD/IFCD/PHED/MI/Electricity Rules, 1978 has been amended by the Terminal Benefits for Work-charged Employees of PWD/IFCD/PHED/MI/Electricity (Second Amendment) Rules, 2020 published

in the Manipur Gazette on 07.01.2021 and by the Second Amendment Rules, 2020 substituted Clause (a) of Rule 6 (1). The petitioner had rendered service for 22 years as Work-charged Employee and he is entitled under the 2<sup>nd</sup> Amendment Rules, 2020.

**[11]** Mr. Ch. Robinchandra, learned counsel for the petitioner has submitted that the present case is squarely covered by a recent judgment of this Court in the case of Smt. Chingangbam Pateshori Devi v. State of Manipur & Ors [Judgment dated 05.02.2024 in WP(C) No. 951 of 2022], where it has been held that the benefit Rule 6A & 6B of 'Terminal Benefits for Work-Charged Staffs of PWD/IFCD/PHED/MI and Electricity (Manipur) Rules, 1978 (as amended)' will be applicable to both permanent and non-permanent work-charged employees for availing terminal benefits including family pension. The decision has been arrived on consideration on earlier decisions of this Court in WP(C) No. 369 of 2015, WA No. 29 of 2009 and WA No. 48 of 2018. Relevant para 10 of the judgment dated 05.02.2024 in WP(C) No. 951 of 2022 is reproduced below for clarity.

*“[10] This Court has considered the rival submissions made at bar, the pleadings of the parties and the settled propositions of law in this regard. From the above cited decisions, it is quite clear that on joint reading of Rules 6A & 6B of “Terminal Benefits for Work-Charged Staffs of PWD/IFCD/PHED/MI and Electricity (Manipur) Rules, 1978” (as amended), the terminal benefits are entitled to both permanent and non-permanent work-charged employees and their family members. It has been held that there is no difference between the permanent and non-permanent work-charged employees for availing terminal benefits including family pension. The Rules of 1978 does not specify any requirement of confirmation to avail terminal benefit. This Court does*

*not find any force in the submission of Mrs. Ch. Sundari, learned GA to the fact that the earlier decisions are not precent, as the OM dated 22.01.2001 for confirmation of work-charged employees was not considered in those decisions.”*

[12] Learned counsel for the petitioner submits that the facts of the present case similar to that of **Pateshori case (supra)**. In the present case also, the petitioner was working more than 22 years as work-charged employee and non-confirmation does not affect his right to pensionary benefits in terms of Rules 6A & 6B, as held in the above para. It is prayed that similar relief be granted to the petitioner for entitlement of pensionary benefits.

[13] Mr. Ch. Sundari, learned GA submits that the ratio of **Pateshori case** will not be applicable to the present case. Mr. S. Samarjeet, learned Sr.PCCG for respondent No.5 submits that unless the administrative department refers the case of the petitioner for granting pensionary benefit, the office of the Principal Accountant General, Manipur has no role.

[14] This Court peruses the materials on record, the submissions made at bar and relevant case law. It is seen that the present case is squarely covered by the decision of this Court in the case of **Pateshori (supra)**. In that case, it has been held that the terminal benefits under Rules of 1978 (as amended) would be applicable to both permanent and non-permanent work-charged employees of the various engineering departments and their family members. It is further held that there is no



difference between the permanent and non-permanent work-charged employees for availing the benefits and no requirement for confirmation.

**[15]** In the present case, the petitioner worked for more than 22 years as work-charged employee in the PHED and as such he falls within the ambit of Rules 6A & 6B, as held in **Pateshori case (supra)**. And he is entitled to the terminal benefits in terms of Rules of 1978. Accordingly, respondents are directed to take steps for releasing service pension to the petitioner and other retirement benefits. The administrative department is directed to complete the process of preparation of necessary papers within a period of 2 (two) months from the date of receipt of a copy of this order and the Principal Accountant General Manipur shall issue necessary pension authority within a period of 1 (one) month from the date of receipt of necessary documents from the administrative department. No cost.

**[16]** Writ petition is allowed in terms of the above directions. Send a copy of this order to the respondents for information and necessary compliance.

**JUDGE**

**FR/NFR**

*Kh. Joshua Maring*

**KH.  
JOSHUA  
MARING**

Digitally signed  
by KH. JOSHUA  
MARING  
Date: 2024.05.02  
09:34:06 +05'30'