

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.A. No. 61 of 2023

1. The State of Manipur represented by the Commissioner/Secretary (Transport), Government of Manipur, Old Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
2. The Director (Transport), Government of Manipur, Manipur State Transport (MST) Complex, Moirangkhom, Imphal West District – 795001, Manipur.

Appellants

-Versus-

1. Smt. Wahengbam Prava Devi, aged about 64 years, W/O Oinam Kunjakishor Singh, resident of Wangkhei Hijam Leikai, P.O. & P.S. Porompat, Imphal East District, Manipur- 795005.
2. Nongthombam Bhanu Devi, aged about 62 years, W/o Sougaijam Ranjit Singh, resident of Naoremthong Khulem Leikai, P.O. & P.S. Lamphelpat, Imphal West District, Manipur- 795001.

Respondents

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

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| For the appellants | :: | Mr. M. Devananda, Additional A.G. Ms. N. Jyotsana, Advocate |
| For the respondents | :: | Ph. Sarvodaya Lakshmi, Advocate |
| Date of reserving Judgment & Order | :: | 11.02.2025 |
| Date of Delivery of Judgment & Order | :: | 28.02.2025 |

JUDGMENT & ORDER (CAV)

JUSTICE D. KRISHNAKUMAR, CJ:

[1] The present writ appeal has been filed by the Commissioner/Secretary (Transport), Government of Manipur, challenging the impugned judgment and order dated 17.02.2023 passed by the writ court in W.P. (C) No. 925 of 2021, which was disposed of with the following directions:

- "(a) The respondents are directed to release the remuneration/ salaries due payable to the petitioners for the period w.e.f. the date of their engagement i.e., 28-08-2012 in respect of petitioner No. 1 and 23-12-2011 in respect of petitioner No. 2, till the month of February, 2020 along with interest at the rate of 6% per annum from the date the monthly salary of the petitioners are due payable till the actual payment of the entire amount; and*
- (b) The payment should be made within a period of two months from the date of receipt of a copy of this order."*

[2] The brief facts of the case are as follows.

The respondents herein were appointed as Lower Division Clerk (LDC) on contract basis for a certain period and their services were terminated in the year 2010. Subsequently, the respondents herein were re-engaged in the office of the PRS (Passenger Reservation System) as Office Assistant and Machine Operator, w.e.f. 28.08.2012 and 23.12.2011 respectively, pursuant to the agreement between the Government of Manipur (Transport Department) and North East Frontier Railway in connection with the working

of computerised reservation office at Imphal, Manipur, signed on 01.01.2007 with certain terms and conditions.

The contention of the respondents herein before the writ court is that the appellant department has not paid their monthly salary from the date of re-engagement to their service i.e., from the month of August 2012 and December 2011 respectively, without any valid and justifiable reasons.

The learned single judge has considered the letter dated 04.02.2021 issued by the Director of Transport, Manipur, shutting down of PRS Office at Imphal and Churachandpur with effect from February, 2020. Since there is no other order terminating the service of the respondents herein, they are entitled to get remuneration/salary only for the period w.e.f. the date of their re-engagement, till the date, they attain superannuation cannot be countenanced, in view of the stand of the department that as per order dated 04.02.2021, the remuneration/salary of all the contractual staff will be calculated upto February, 2020. The writ petition was allowed with the direction to release the remuneration/ salaries due payable to the respondents herein for the period w.e.f. the date of their engagement i.e., 28-08-2012 in respect of respondent No. 1 herein and 23-12-2011 in respect of respondent No. 2 herein, till the month of February, 2020 along with interest at the rate of 6% per annum from the date the monthly salary of the respondents are due payable till the actual payment of the entire amount

[3] Challenging the aforesaid order, the State of Manipur has filed the instant writ appeal before this Court by raising following grounds.

Learned Additional Advocate General, Manipur, appearing for the appellants herein, by relying upon the Office Memorandum dated 27.12.2023, submitted that the re-engagement of the respondents herein should be renewed for every year and since the respondents herein have attained the age of superannuation, the order of the writ court is liable to be set aside.

[4] By proceeding dated 12.10.2021, the Director (Transport) Manipur, submitted letter to the Additional Chief Secretary, (Transport) Government of Manipur, with regard to release of due salary of two PRS staff, namely, Smt. W. Prava Devi and Smt. N. Bhanu Devi, wherein, it has been specifically stated that request for payment of outstanding salaries by the respondents herein, till the time of closure of the PRS offices despite of exceeding their superannuation ages and without issue of fresh re-engagement order by the Government cannot be entertained. It may be recalled that the engagement of staff by the Government should be renewed for every year vide Secretariat: Finance OM dated 27.12.2013 and the engagement is to be considered cancelled if the Government does not issue fresh order in this regard. However, it was not done in case of the respondents herein.

[5] Further in the aforesaid report, it is stated that the payment of outstanding salaries of the two respondents herein from the available fund of PO Charges may raise issues if other staff of PRS request for the same and therefore they sought for advice from the Administrative Department

(Transport), Government of Manipur, since there is involvement of huge Government money which are yet to be settled.

[6] Therefore, the said report itself discloses that the respondents herein were re-engaged in the appellant department.

[7] By letter No. 14/8/MV/96 RCR (3)III/4018 dated 18.02.2021, written by the SPIO/Dy Director of Transport, Manipur, addressed to the Deputy Registrar (Judicial-I) Manipur Information Commission, furnishing reply to rejoinder in Appeal Case No. 62 & 63 of 2020, it has been stated in para 3 that the remuneration/salary as for N. Bhanu Devi and W. Prava Devi are calculated upto their attaining the age of superannuation. And as per record, their date of birth is 01.06.1957 and 01.03.1959 respectively. Therefore, their outstanding salaries/remuneration is estimated as given below:

(i) N. Bhanu Devi (Appellant of Appeal Case No. 62 of 2020)

Rate of remuneration = Rs. 7000/-

No. of months = 62 (23rd December, 2011 to 28th February, 2017)

= Rs. 70000*62

= Rs. 4,34,000/-

ii) W. Prava Devi (Appellant of Appeal Case No. 63 of 2020)

Rate of remuneration = Rs. 7000/-

No. of months = 81 (28th August, 2012 to 31st May, 2019)

= Rs. 70000*81

= Rs. 5,67,000/-

[8] In the aforesaid proceeding dated 18.02.2021, it is clearly stated that the respondents herein are entitled for outstanding salary for the period they were re-engaged till they attain the age of superannuation, i.e. 28th August, 2012 to 31st May, 2019 in respect of W. Prava Devi and 23rd December, 2011 to 28th February, 2017 in respect of N. Bhanu Devi.

[9] In view of the aforesaid communication of the SPIO/Dy. Director of Transport, Manipur, we came to conclusion that the respondents herein are entitled for payment of remuneration for the period, they were re-engaged till they attain the age of superannuation.

[10] However, Ms. Ph. Sarvodaya Lakshmi, learned counsel for the respondents herein has disputed and stated that they have been engaged till shutting down of the PRS Office, i.e, till February 2020 and considering the said fact, the writ court has passed direction that they are entitled for the remuneration till February, 2020, but it has been strongly disputed by the appellant department stating that there is no document to show that the respondents herein have been engaged, after the date of superannuation.

[11] Considering on the said submissions, we are of the view that the said fact is a disputed one and therefore this court cannot grant the benefit for payment of remuneration/salary for the period from the date of superannuation, till February 2020. This aspect has to be considered by the appropriate forum in accordance with the provision of the Act and, therefore, we are not inclined to accept the contention of the respondents herein for the

granting the remuneration/salary for the period of service after the date of superannuation.

[12] Learned counsel appearing for the respondents herein relying upon the decision of the Hon'ble Supreme Court in **Ramswaroop Masawan Vs. Municipal Council and Another [(1999) AIR (SC) 705]** submits that the respondents are entitled for salary/remuneration for the re-engagement period. On the facts of the case, we have no hesitation for accepting re-engagement period based on the documents which are available in the record.

On reading of the aforesaid letter dated 18.02.2021, it is clearly stated that communication has been sent to the respondents herein regarding the notice dated 04.02.2021 informing that the PRS Office will shut down with effect from February, 2020. Therefore, the said document cannot be relied upon by the respondents to show that they have been engaged in the department after the date of superannuation. Since no document has been placed before this Court in supporting of their contention, the aforesaid submission of the respondents herein is disputed fact and hence this Court cannot decide the said disputed facts under Article 226 of the constitution of India.

In the circumstance, this Court is inclined to partly allow the writ appeal and modify the order of the writ Court as follows:

- (i) the appellants are directed to pay the remuneration to the respondents herein from the 28.08.2012 to 31.05.2019 in respect of W. Prava Devi and 23.12.2011 to 28.02.2017 in respect of N. Bhanu Devi, along with interest at the rate of 6% per annum from the date the

monthly salary of the respondents herein are due payable till the actual payment of the entire amount

- (ii) the appellants shall comply with the directions within a period of two months from the date of receipt of a copy of this order
- (iii) in so far as the disputed period of re-engagement is concerned, it is open to the respondents herein to seek their remedy before the appropriate forum.

With the above observations, the present writ appeal is partly modified and consequently, the writ appeal is partly allowed.

No order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR

Sandeep