

**Chingtham Binodini Devi Vs. State of Manipur and anr.**

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**Court :** Guwahati

**Decided On :** Jun-14-2001

**Judge :** N.S. Singh, J.

**Appeal No. :** WP(C) No. 862 of 2001

**Appellant :** Chingtham Binodini Devi

**Respondent :** State of Manipur and anr.

**Advocate for Def. :** Bidyamani Devi, Adv.

**Advocate for Pet/Ap. :** Harichhaya Chanu, Adv.

**Prior history :** N.S. Singh, J. 1. Upon hearing Ms. Hari Chhaya Chanu, learned counsel for the petitioner as well as Mrs. Bidyamani Devi, learned Additional Govt. Advocate for the State respondents and also on perusal of the available material on record, I am of the view that this matter can be disposed of at this stage considering the simple nature of case and, accordingly, this writ petition is hereby disposed of with the following short order. 2. In this writ petition, a prayer has been made by the petiti

**Judgement :**

**N.S. Singh, J.**

1. Upon hearing Ms. Hari Chhaya Chanu, learned counsel for the petitioner as well as Mrs. Bidyamani Devi, learned Additional Govt. Advocate for the State respondents and also on perusal of the available material on record, I am of the view that this matter can be disposed of at this stage considering the simple nature of case and, accordingly, this writ petition is hereby disposed of with the following short order.

2. In this writ petition, a prayer has been made by the petitioner for a direction to the respondents/ authorities concerned to allow the petitioner to enjoy the scale of pay attached to the post of regular A.I. of Schools, who has been rendering her duties as I/C A.I. of Schools since the year 2000 vide, order dated 20.5.2000 bearing No. 3(3)/4/93-SE(S) Pt.II(A) issued by the Joint Secretary (Edn./S), Government of Manipur as in Annexure-A/3 to the writ petition by contending inter alia, that she has not been paid the pay and allowances attached to the post of A.I. of Schools without any valid reason.

3. It is not disputed rather it is admitted at the bar by the learned counsel for the petitioner as well as Mrs. Bidyamani Devi, learned Addl. Govt. Advocate appearing for the State respondents that the present case is squarely covered up by a number of decisions/judgments passed by this Court dated 26.5.2000, 23.6.2000, 2.11.2000, 23.3.2001, 27.4.2001 in WHO No. 628/2000, WHO No. 750/2000, WHO No. 1438/2000, WP(C) No. 169/2001 and WHO No. 488/2001. Apart from that, in *Judhistir Mohanty v. State of Orissa and Ors.* reported in : (1997)IILLJ743SC , the Apex Court has pointed and held, thus :

It is settled position that if the Government, for want of candidate, directs an officer in the lower degree to perform the duties of the post in the higher cadre during the period, necessarily, the incumbent would be entitled to the payment of the salary attached to the post if the incumbent has performed the duties of that post.

4. In another case, between *Selva Raj v. Lt. Governor of Island, Port Blair and Ors.* reported in : AIR 1999 SC838 , the Apex Court pointed out that if an employee worked on higher post though temporarily and in officiating capacity, is entitled to salary attached to the higher post.

5. In view of the above position, the petitioner is entitled to get the pay and allowances attached to the post of A.I. of schools as long as she renders her services and, accordingly, I direct the respondents /authority concerned to verify the matter and, if the authority concerned found that the petitioner has been rendering her services as I/C A.I. of Schools since the year 2000 under the respondents-Department as mentioned above then in that case, she shall be allowed to get the salary of a regular A.I. of Schools and, this shall be done within a period of 3 (three) months from the date of receipt of this order after proper adjustment of the salary so far drawn by her.

6. For the reasons, observations and direction made above, this writ petition is disposed of but, no order as to costs.

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