

W.A. No. 3 of 2015

**B E F O R E**

**THE HON'BLE MR. JUSTICE M. R. PATHAK**  
**THE HON'BLE MR. JUSTICE AJIT BORTHAKUR**

12.06.2017

*(M.R. PATHAK, J)*

Heard Mr. Victor L. Ralte, learned counsel for the appellants. Also heard Mr. Rosangzuala Ralte, learned Govt. Advocate for all the State respondents.

2. The appellants herein earlier served as Junior Engineers on contractual basis under the Public Works Department of the State. In terms of the decision of the Departmental Promotional Committee dated 17.07.2012, services of the appellants were regularized as Junior Engineers vide orders dated 20.07.2012 as well as 27.08.2012, issued by the Engineer-in-Chief, PWD.

3. The appellants as petitioners filed W.P(C) No. 68/2015 praying for a direction to the respondents therein to count their past services on contractual basis for the purpose of Leave and Pensionary benefits and Seniority as provided in the orders of their regularization of service dated 20.07.2012 and 27.08.2012 and to consider them under the CCS Pension Rules, 1972 and also to allot them the GPF account numbers.

4. The Finance Department of the State vide Notification dated 27.02.2015 published in the Mizoram Gazette on 27.02.2015 itself amended the Mizoram New Defined Contributory Pension Scheme, 2010 by the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 and amending, the 2010 Scheme, substituting that it shall become mandatory to the Government servants who entered into the Government service on regular basis/regularized on

or after 01.09.2010 and that the existing provisions of Defined Benefit Pension Scheme and General Provident Fund would not be available to such Government servants who joined Government Service and/or whose service were regularized on or after 01.09.2010 and that the Government servants joining the services and/or whose service was regularized on or after 01.09.2010 shall not subscribe to the General Provident Fund and shall rather join the New Defined Pension Scheme automatically.

5. The learned Single Judge in the impugned Judgment & Order dated 01.10.2015 in said W.P(C) No. 68/2015 held that the petitioners of the said writ petition are governed by the 2010 Pension Scheme as per the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 which has the retrospective effect and since the writ petitioners did not challenge the said 2015 Amended Scheme in the said writ petition W.P(C) No. 68/2015 preferred by the petitioners was accordingly dismissed.

6. From the perusal of the materials available before the Court, it is seen and as noted above that the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 was published in the State Gazette on 27.02.2015, which came into force w.e.f. said date itself and the substituted clauses brought in by amendment as 2015 Pension Scheme by giving retrospective effect. Though the petitioners preferred the said W.P(C) No. 68/2015 in the month of May, 2015 only but they did not challenge the said 2015 Scheme of the Government and in their said writ petition without challenging the amended provision of the Pension Scheme claimed for pensionary benefits during their contractual period, which were debarred by the said 2015 amendment of the Pension Scheme.

7. Since the appellants without challenging the said provisions of the Mizoram New Defined Contributory Pension (First Amendment) Scheme 2015, we do not find any illegality and infirmity in the impugned order dated 01.10.2015 passed by the learned Single Judge in W.P(C) No. 68/2015 in rejecting the prayer made by the petitioners/appellants and in dismissing their said W.P(C) No. 68/2015.

8. Accordingly, this writ appeal being devoid of merit stands dismissed.

9. However as the appellants during the argument submitted that similarly placed incumbents, like the present appellants, whose services were also regularized after long tenure of contractual service, after 01.09.2010 have challenged the said amended provisions of the Mizoram New Defined Contributory Pension Scheme, 2010 brought in by Mizoram New Defined Contributory Pension Scheme, 2015 which are pending for disposal.

10. It is made clear that there shall be no bar for the appellants to challenge the vires of the said Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015.

JUDGE

JUDGE

*Dika*

W.A. No. 4 of 2015

**B E F O R E**

**THE HON'BLE MR. JUSTICE M. R. PATHAK  
THE HON'BLE MR. JUSTICE AJIT BORTHAKUR**

12.06.2017

*(M.R. PATHAK, J)*

Heard Mr. Victor L. Ralte, learned counsel for the appellants. Also heard Mr. Rosangzuala Ralte, learned Govt. Advocate for all the State respondents.

2. The appellants herein earlier served as UDCs on contractual basis under the Public Works Department of the State. In terms of the recommendation of the Mizoram Public Service Commission , services of the appellants were regularized as UDCs in PWD vide orders dated 25.08.2014 as well as 05.11.2014, issued by the Engineer-in-Chief, PWD.

3. The appellants as petitioners filed W.P(C) No. 79/2015 praying for a direction to the respondents therein to count their past services on contractual basis for the purpose of Leave and Pensionary benefits and Seniority as provided in the orders of their regularization of service dated 25.08.2014 and 05.11.2014 and to consider them under the CCS (Pension) Rules, 1972 and also to allot them the GPF account numbers.

4. The Finance Department of the State vide Notification dated 27.02.2015, published in the Mizoram Gazette on 27.02.2015 itself amended the Mizoram New Defined Contributory Pension Scheme, 2010 by the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 and amending, the 2010 Scheme, substituting that it shall become mandatory to the Government servants who entered into the Government service on regular basis/regularized on

or after 01.09.2010 and that the existing provisions of Defined Benefit Pension Scheme and General Provident Fund would not be available to such Government servants who joined Government Service and/or whose service were regularized on or after 01.09.2010 and that the Government servants joining the services and/or whose service was regularized on or after 01.09.2010 shall not subscribe to the General Provident Fund and shall rather join the New Defined Pension Scheme automatically.

5. The learned Single Judge in the impugned Judgment & Order dated 01.10.2015 in said W.P(C) No. 79/2015 held that the petitioners of the said writ petition are governed by the 2010 Pension Scheme as per the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 which has the retrospective effect and since the writ petitioners did not challenge the said 2015 Amended Scheme in the said writ petition W.P(C) No. 79/2015 preferred by the petitioners was accordingly dismissed.

6. From the perusal of the materials available before the Court, it is seen and as noted above that the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 was published in the State Gazette on 27.02.2015, which came into force w.e.f. said date itself and the substituted clauses brought in by amendment as 2015 Pension Scheme by giving retrospective effect. Though the petitioners preferred the said W.P(C) No. 79/2015 in the month of May, 2015 only but they did not challenge the said 2015 Scheme of the Government and in their said writ petition without challenging the amended provision of the Pension Scheme claimed for pensionary benefits during their contractual period, which were debarred by the said 2015 amendment of the Pension Scheme.

7. Since the appellants without challenging the said provisions of the Mizoram New Defined Contributory Pension (First Amendment) Scheme 2015, we do not find any illegality and infirmity in the impugned order dated 01.10.2015 passed by the learned Single Judge in W.P(C) No. 79/2015 in rejecting the prayer made by the petitioners/appellants and in dismissing their said W.P(C) No. 79/2015.

8. Accordingly, this writ appeal being devoid of merit stands dismissed.

9. However as the appellants during the argument submitted that similarly placed incumbents, like the present appellants, whose services were also regularized after long tenure of contractual service, after 01.09.2010 have challenged the said amended provisions of the Mizoram New Defined Contributory Pension Scheme, 2010 brought in by Mizoram New Defined Contributory Pension Scheme, 2015 which are pending for disposal.

10. It is made clear that there shall be no bar for the appellants to challenge the vires of the said Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015.

JUDGE

JUDGE

*Dika*

W.A. No. 5 of 2015

**B E F O R E**

**THE HON'BLE MR. JUSTICE M. R. PATHAK  
THE HON'BLE MR. JUSTICE AJIT BORTHAKUR**

12.06.2017

*(M.R. PATHAK, J)*

Heard Mr. Victor L. Ralte, learned counsel for the appellants. Also heard Ms. Mary L. Khiangte, learned Govt. Advocate for all the State respondents.

2. The appellants herein earlier served as Junior Engineers on contractual basis under the Public Works Department of the State. In terms of the decision of the Mizoram Public Service Commission, services of the appellants were regularized as Junior Engineers under the PWD vide orders dated 26.08.2014 and 20.11.2014, issued by the Engineer-in-Chief, PWD.

3. The appellants as petitioners filed W.P(C) No. 85/2015 praying for a direction to the respondents therein to count their past services on contractual basis for the purpose of Leave and Pensionary benefits and Seniority as provided in the orders of their regularization of service dated 26.08.2011 and 20.11.2014 and to consider them under the CCS (Pension) Rules, 1972 and also to allot them the GPF account numbers.

4. The Finance Department of the State vide Notification dated 27.02.2015 published in the Mizoram Gazette on 27.02.2015 itself amended the Mizoram New Defined Contributory Pension Scheme, 2010 by the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 and amending, the 2010 Scheme, substituting that it shall become mandatory to the Government servants who entered into the Government service on regular basis/regularized on or after 01.09.2010 and that the existing provisions of Defined Benefit Pension

Scheme and General Provident Fund would not be available to such Government servants who joined Government Service and/or whose service were regularized on or after 01.09.2010 and that the Government servants joining the services and/or whose service was regularized on or after 01.09.2010 shall not subscribe to the General Provident Fund and shall rather join the New Defined Pension Scheme automatically.

5. The learned Single Judge in the impugned Judgment & Order dated 01.10.2015 in said W.P(C) No. 85/2015 held that the petitioners of the said writ petition are governed by the 2010 Pension Scheme as per the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 which has the retrospective effect and since the writ petitioners did not challenge the said 2015 Amended Scheme in the said writ petition W.P(C) No. 85/2015 preferred by the petitioners was accordingly dismissed.

6. From the perusal of the materials available before the Court, it is seen and as noted above that the Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015 was published in the State Gazette on 27.02.2015, which came into force w.e.f. said date itself and the substituted clauses brought in by amendment as 2015 Pension Scheme by giving retrospective effect. Though the petitioners preferred the said W.P(C) No. 85/2015 in the month of May, 2015 only but they did not challenge the said 2015 Scheme of the Government and in their said writ petition without challenging the amended provision of the Pension Scheme claimed for pensionary benefits during their contractual period, which were debarred by the said 2015 amendment of the Pension Scheme.

7. Since the appellants without challenging the said provisions of the Mizoram New Defined Contributory Pension (First Amendment) Scheme 2015, we



do not find any illegality and infirmity in the impugned order dated 01.10.2015 passed by the learned Single Judge in W.P(C) No. 85/2015 in rejecting the prayer made by the petitioners/appellants and in dismissing their said W.P(C) No. 85/2015.

8. Accordingly, this writ appeal being devoid of merit stands dismissed.

9. However as the appellants during the argument submitted that similarly placed incumbents, like the present appellants, whose services were also regularized after long tenure of contractual service, after 01.09.2010 have challenged the said amended provisions of the Mizoram New Defined Contributory Pension Scheme, 2010 brought in by Mizoram New Defined Contributory Pension Scheme, 2015 which are pending for disposal.

10. It is made clear that there shall be no bar for the appellants to challenge the vires of the said Mizoram New Defined Contributory Pension (First Amendment) Scheme, 2015.

JUDGE

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