

**IN THE HIGH COURT OF MANIPUR**

**AT IMPHAL**

**WP(C) No. 748 of 2023**

Dr. Laishram Saratchandra Singh, aged about 59 years, S/o Late Laishram Chourajit Singh, a resident of Khangabok Awang Leikai, P.O./P.S. Thoubal, Thoubal District, Manipur, Pin-795138.

*..... Petitioner/s*

**- Versus -**

1. The State of Manipur, represented by Chief Secretary/Secretary(DP), Government of Manipur, Old Secretariat Building, P.O. & P.S. Imphal, Imphal West, Manipur-795001.
2. The Additional Chief Secretary/Commissioner (Forest & Environment), Government of Manipur, Secretariat Building, P.O. & P.S. Imphal, Imphal West, Manipur-795001.
3. The Principal Chief Conservator of Forest & HOFF, Government of Manipur, Sanjenthong, Imphal East, Manipur.

*.....Respondent/s*

**B E F O R E**

**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioners	::	Mr. Y. Nirmolchand, Sr. Adv. & Mr. L. Raju, Adv.
For the respondents	::	Mr. Th. Sukumar, G.A.
Date of Hearing	::	20.06.2024
Date of Judgment and Order	::	05.07.2024

## **ORDER (CAV)**

[1] Heard Mr. Y. Nirmolchand, learned senior counsel assisted by Mr. L. Raju, learned counsel for the petitioner and Mr. Th. Sukumar, learned G.A. for the State respondents.

[2] The brief facts of the case are that the petitioner was initially appointed as Veterinary Assistant Surgeon (now redesignated as Veterinary Officer Grade-IV) on 01.03.1999 on ad-hoc basis in Manipur Zoological Garden, Iroisemba under the Department of Forest & Environment, Government of Manipur and vide order dated 24.11.2011 issued by the Principal Secretary (For. & Env't.), Government of Manipur, the petitioner's service was regularized. By Manipur Gazette Notification No. 248 dated 08.10.2018 in pursuance of the Cabinet decision taken on 30.07.2018, the Governor of Manipur is pleased to enhance the age of superannuation of the Officers of Manipur Veterinary and Animal Husbandry Service (MV & AHS) from 60 years to 62 years. Vide another notification dated 12.02.2020 issued in pursuance of the Cabinet Decision taken on 24.01.2020 and U.O. dated 11.02.2020 allotted by the Department of Personnel, Government of Manipur, the age of the superannuation was enhanced from 60 years to 62 years in respect of 6 (six) Medical Officers and 6 (six) Veterinary Officers working under Six Autonomous District Councils, Manipur w.e.f. 24.01.2020. However, the petitioner was left out and the petitioner's date of superannuation was not extended from 60 years to 62 years.

**[3]** Being aggrieved, the petitioner submitted 2 (two) representations dated 10.08.2021 and 05.09.2023 to the Director, Manipur Zoological Garden and the Principal Chief Conservator of Forest for enhancement of age of superannuation for Veterinary Doctors from 60 years to 62 years. Since the representations submitted by the petitioner were not considered by the authorities, the petitioner approached this Court by way of the present writ petition. It is submitted that the petitioner is retiring in the month of June, 2024 on attaining the age of superannuation.

**[4]** The main ground for filing the present writ petition is that the petitioner is also entitled for enhancement of the age of superannuation from 60 years to 62 years as done in the case of similarly situated Veterinary Officers. It is also stated that the respondents have acted arbitrarily, unequal treatments and have violated Article 14 & 16 of the Constitution of India.

**[5]** The respondent No. 1 has filed counter affidavit stating that after the regularization of the petitioner's ad-hoc service, the service of the petitioner is governed by the Department of Forest, Manipur Veterinary Assistant Surgeon Recruitment Rules, 2010 vide notification dated 21.01.2010 and there is no executive order/provision enhancing the age of superannuation of the service of the petitioner from 60 years to 62 years under the Department of Forest, Manipur Veterinary Assistant Surgeon Recruitment Rules, 2010. Since the petitioner is not working under the Veterinary & Animal Husbandry Department Government of Manipur, the petitioner has no right to claim the benefit of enhancement of age of

superannuation. It is prayed that the writ petition be dismissed as being devoid of merit.

**[6]** Respondent Nos. 2 & 3 have also filed counter affidavit whereby it is stated that the age of superannuation of the Officers of Manipur Veterinary & Animal Husbandry Service (MV & AHS) was enhanced from 60 years to 62 years vide Manipur Gazette Notification No. 248 dated 08.10.2018 and the same was also done in the case of Veterinary Officers under 6 (six) Autonomous District Councils vide notification dated 12.02.2020. It is further stated that the Veterinary Officers of the Manipur Zoological Garden, Iroishemba under the Forest Department is left out for enhancement of the age of superannuation while the same has been extended to all the Officers of Manipur Veterinary & Animal Husbandry Services and to the Veterinary Officers working under Autonomous District Councils. It is stated the representation submitted by the petitioner to the Principal Chief Conservator of Forest has been forwarded to the Additional Chief Secretary (Forest, Environment & Climate Change), Government of Manipur for enhance of age of superannuation and the same is under process. It is prayed that the writ petition be dismissed as being devoid of merit.

**[7]** Mr. Y. Nirmolchand, learned senior counsel for the petitioner submits that the plea of the respondents that the enhancement of age of superannuation from 60 years to 62 years for the Veterinary Officers is confined to those employees governed under MV&AHS is not tenable, as the same benefit is extended to the Veterinary and Medical Officers of the

six Autonomous District Councils. It is pointed out that the service of the Veterinary and Medical Officers of the 6 ADCs are not regulated by MV&AHS. It is further urged that the pay and qualification of the veterinary officer under Manipur Zoological Garden and that of under V&AH Department are similar. Due to the lapse of the State Government, such benefit was not extended to the petitioner and he shall not be made to suffer for the lapse of the administration. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of **John Vallamattom v. Union of India** reported as **(2003) 6 SCC 611 @ Para 62** holding that principle of equality before law is applicable in matter of granting of privileges and there should be no discrimination between one person and another if their positions are same. Para 62 is reproduced below:

**62.** Article 14 of the Constitution states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The first part of Article 14 of the Constitution of India is a declaration of equality of civil rights for all purposes within the territory of India and basic principles of republicanism and there will be no discrimination. The guarantee of equal protection embraces the entire realm of "State action". It would extend not only when an individual is discriminated against in the matter of exercise of his right or in the matter of imposing liabilities upon him, but also in the matter of granting privileges etc. In all these cases, the principle is the same, namely, that there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is the same. In my view, all persons in similar circumstances shall be treated alike both in privileges and liabilities imposed. The classification should not be arbitrary; it should be reasonable and it must be based on qualities and characteristics and not any other who are left out, and those qualities or characteristics must have reasonable relations to the object of the legislation.

**[8]** Mr. Y. Nirmolchand, learned senior counsel for the petitioner concludes that there is no difference in the work, qualification and pay scale

of the petitioner from those working in the Veterinary Department and in the ADCs. It is re-iterated that there is no plausible reason for denying the benefit of extension of age of superannuation from 60 years to 62 years to the petitioner, while similar benefits are granted to Veterinary Officers and Medical Officers working in ADCs. It is prayed that the writ petition be allowed by directing the respondents to extend the age of superannuation of the petitioner from 60 years to 62 years as done in the case of the Veterinary Officers working in other departments.

**[9]** Mr. Th. Sukumar, learned GA has pointed out that initially the extension of age of superannuation from 60 years to 62 years was granted to the Veterinary and Animal Husbandry Department in pursuance of a Cabinet decision and further extended to the ADCs on the basis of another Cabinet decision. It is highlighted that there is no Cabinet decision for such extension to the Veterinary Officer working in the Manipur Zoological Garden and hence there can be no automatic extension of such benefit to the petitioner. It is prayed that the writ petition be dismissed being devoid of any merit.

**[10]** This Court considers the materials on record, the submissions made at bar and the principles of law in this regard.

**[11]** It is an admitted fact that vide Notification dated 22.09.2018 issued by the Department of Personnel & Administrative Reforms (Personal Division), Government of Manipur, the age of superannuation of officers of Manipur Veterinary and Animal Husbandry Service (MV&AHS) was

extended from 60 years to 62 years in pursuance of a Cabinet decision taken on 30.07.2018. Vide another Notification dated 12.02.2020 issued by Hill Department, Government of Manipur, similar benefit was also extended to 6 Medical Officers and 6 Veterinary Officers of the 6 ADCs in pursuance of another Cabinet decision dated 24.01.2020. However, the case of the petitioner who is working as a Veterinary Officer in Manipur Zoological Garden was not considered in spite of his representations made in this regard. Due to inaction on the part of the administration, the case of the petitioner was never placed before the Cabinet. The stand of the respondents that the benefit of enhanced age of superannuation will be applicable to those employees MV&AHS is without any credence as similar benefit has been extended to the Medical Officers and Veterinary Officers of ADCs. In a welfare State, the hallmark in the executive and legislative action is the principle of equality embodied in Article 14 of the Constitution of India. There can be classification for the purpose of Article 14, but it should be reasonable and intelligible so that such classification forms a homogeneous group. Similarly situated persons should not be left out of the group.

[12] In the celebrated case of **D. S. Nakara v. Union of India: (1983) 1 SCC 305**, a Constitution Bench of the Hon'ble Supreme Court held that classification under Article 14 should satisfy twin test of intelligible differentia and nexus of classification with the object to be achieved. If similarly situated persons are left out of the classification, the legislation and/or executive action can be struck down for violation of the principle of

equality enshrined in the Article 14 of the Constitution of India. Para 15 & 16 are reproduced for reference.

**15.** Thus the fundamental principle is that Article 14 forbids class legislation but permits reasonable classification for the purpose of legislation which classification must satisfy the twin tests of classification being founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question.

**16.** As a corollary to this well established proposition, the next question is, on whom the burden lies to affirmatively establish the rational principle on which the classification is founded correlated to the object sought to be achieved? The thrust of Article 14 is that the citizen is entitled to equality before law and equal protection of laws. In the very nature of things the society being composed of unequals a welfare State will have to strive by both executive and legislative action to help the less fortunate in the society to ameliorate their condition so that the social and economic inequality in the society may be bridged. This would necessitate a legislation applicable to a group of citizens otherwise unequal and amelioration of whose lot is the object of State affirmative action. In the absence of doctrine of classification such legislation is likely to flounder on the bed rock of equality enshrined in Article 14. The Court realistically appraising the social stratification and economic inequality and keeping in view the guidelines on which the State action must move as constitutionally laid down in Part IV of the Constitution, evolved the doctrine of classification. The doctrine was evolved to sustain a legislation or State action designed to help weaker sections of the society or some such segments of the society in need of succour. Legislative and executive action may accordingly be sustained if it satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. The State, therefore, would have to affirmatively satisfy the Court that the twin tests have been satisfied. It can only be satisfied if the State establishes not only the rational principle on which classification is founded but correlate it to the objects sought to be achieved. This approach is noticed in *Ramana Dayaram Shetty v. International Airport Authority of India*<sup>7</sup> when at SCR p. 1034 (SCC p. 506), the Court observed that a discriminatory action of the Government is liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.

[13] This Court is of the opinion that the stand of the respondents that the benefit of enhancement of the age of superannuation from 60 years



to 62 years will be applicable to the such Veterinary Officers under Manipur Veterinary & Animal Husbandry Service is without any substance, as the Medical Officers and Veterinary Officers working in the ADCs are also given the same benefit of extended age of retirement from service. Further, the exclusion of the case of the petitioner, a Veterinary Officer working in the Manipur Zoological Garden, is without any valid reason. Absence of Cabinet decision does not satisfy the twin test as propounded in **D S Nakara case (supra)** and the same cannot be presumed to be an intelligible differentia with regard to the object of classification.

**[14]** Accordingly, this Court holds that the age of superannuation of the petitioner shall stand extended to 62 years. The writ petition is allowed and disposed of. No cost.

**JUDGE**

**FR/NFR**

*Kh. Joshua Maring*