

BEFORE
MANIPUR LOKAYUKTA
3rd Floor, Directorate Complex, 2nd M.R., North AOC, Imphal

COMPLAINT CASE NO. 2 OF 2020

In the matter between:

Mr. Shri Thiyam Nirosn Singh S/o Thiyam Ningthemjao of Chingamakha Meisnam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur-795008.

... *Complainant*

1. ~~Shri Ch. Biramani Singh, Chief Engineer (Power) now retired.~~ (Dropped vide order dated 14.12.2021).
2. Shri N. Sarat Singh, the then Chief Engineer (Power) now re-engaged as Managing Director, MSPCL.
3. Shri Th. Kaminimohon Singh, the then EE/Transmission Construction Div. No. I (now re-engaged as General Manager, MSPCL).
4. Shri M. Budhachandra Sharma, the then EE/Sub-Station Construction Div. No. II (now re-engaged as General Manager, (MSPCL).
5. Smt. Lucy Haokip, General Manager (Finance & Accounts), MSPCL.
6. Shri Ranendra Nandeibam, General Manager (Finance & Accounts), MSPCL.
7. Shri. Thokchom Bimol Singh, DGM/Sub-Station Division No. III, MSPCL.

8. Shri A. Rajendra Sharma, the then AE/Lokchao Sub-station (now re-engaged as DGM/transmission Div. No. III, MSPCL).
9. Shri Y. Chandramani Singh, the then AE Sub-Station Sub-Division No. III (now retired).
10. Shri Gurumayum Tapan Kumar Sharma, Manager (Electrical), MSPCL, SDD- III.
11. Shri Lunkholal Lupho, Manager, Sub-Division XI, TD-III.
12. Shri O. Yaiskul Singh, the then S.O. Transmission construction Div. No. I (now retired).
13. M/s Shyama Power (India) Pvt. Ltd. 15 & 16, Harton Complex, Electronic City, Sector – 18 (part) Gurgaon – 122015, Haryana (India).

..... Respondents/Opposite Parties

BEFORE

Mr. Justice T. Nandakumar Singh, Hon'ble Chairperson
Mr. Ameising Luikham, Hon'ble Member

For the Complainant : In Person
Special Power of Attorney,
Shri Sarangthem Manihar Singh

For the Respondents: Mr. O. Bijoychandra, Sr. Advocate,
Mr. A. Jankinath Sharma, Advocate
- for Respondent Nos. 1.

Mr. H. Ishwarlal Singh, Sr. Advocate
Mr. P. Tomba, Advocate
Mrs. W. Ronabati Devi, Advocate
Mr. Sh. Poireiton Meitei, Advocate
- for Respondent No. 2,,4,7,9 and 10.

Mr. N. Jotendro Singh, Sr. Advocate
Mr. Syed Murtaza Ahmed, Advocate
- for Respondent Nos. 3,8,11 & 12.

Mr. Y Nimolchand Singh, Sr. Advocate
Mr. U. Augusta, Advocate
Mr. L. Raju, Advocate
- for Respondent Nos. 5 & 6.

Mr. M. Hemchandra , Sr. Advocate
Mr. Th. Rohitkumar, Advocate
Mr. Juno Rahman, Advocate
Mr. Ajman Hussain, Advocate
Mrs. Rinika Maibam, Advocate
- for Respondent No. 13.

DATE OF ORDER : 10.03.2022

JUDGMENT AND ORDER

[1] We have considered the letter of the Secretary (Power), Government of Manipur dated 17.02.2022 to the Deputy Registrar, Manipur Lokayukta, wherein it is stated that “Power Department observed that it is not feasible to accept the recommendations at present due to administrative reasons under Section 32(2) of Lokpal and Lokayukta Act, 2013 (corrected as ‘under Section 32(2) of Manipur Lokayukta Act, 2014’).

[2] The law is well settled that public order (in the form of letter) cannot be construed in the light of the explanation subsequently given by the decision making authority and validity or otherwise of the public order shall be decided with reference to the language used in the order

itself. To enlighten this point, it would be proper to refer to some of the decisions of the Hon'ble Supreme Court which will be enough for this matter i.e. (i) **Bhikhubhai Vitlabhai Patel & Ors Vs. State of Gujarat (2008) 4 SCC 144**, (ii) **Mohinder Singh Gill & Anr. Vs. Chief Election Commissioner AIR 1978 SC 851** and also one case of Manipur i.e. **Laishram Tomba Singh Vs. State of Manipur (1984) 2 GLR 225**.

[3] It is clearly settled law that administrative action is to be just and reasonable. The doctrine to act fairly in the administrative law shall also be applied to the Power Department, Government of Manipur in taking the administrative decision/action. (See **Man Singh Vs. State of Haryana & Ors. (2008) 12 SCC 331**, **Noida Entrepreneurs Association Vs. Noida & Ors. (2007) 10 SCC 385**, **Tata Iron & Steel Co. Ltd. Vs. Union of India & Ors. (2001) 2 SCC 41** and **Anil Ratan Sarkar & Ors. Vs. Hirak Ghosh & Ors. (2002) 4 SCC 21**).

[4] In the said letter of the Secretary (Power), Government of Manipur dated 17.02.2022, no reason is mentioned for observing that it is not feasible to accept the recommendations at present due to administrative reasons, as such nothing has been spelt out in the said letter therein what are the administrative reasons. The phrase "administrative reasons" is nothing but the finding and administrative reason cannot be abstract and it should be based on reason and objective satisfaction. What are the materials for coming to the objective satisfaction is not spelt out. As already held by Hon'ble Supreme Court in the cases discussed above, we are trying to understand under what basis the Power Department, Government of Manipur had come to the decision that it is not feasible to accept the recommendations at present due to administrative reasons. It appears that the Power Department,

Government of Manipur is completely oblivious of the Rules of Business of the Government of Manipur and the Business of the Government of Manipur (Allocation) Rules while issuing the said letter dated 17.02.2022. Power Department, Government of Manipur is not competent to consider and take a decision on appointment, promotion, transfer and all service matters relating to HODs who do not belong to the IAS, IPS, IFS and MSS and also in respect of other respondents as their work and conduct has come up for adverse public criticism and to issue the said letter in the case of the Respondent No. 2 (Shri N. Sarat Singh, the then Chief Engineer (Power) now re-engaged as Managing Director, MSPCL) and the said consideration and decision is to be taken up in the manner prescribed under the Rules of Business of the Government of Manipur and the Business of the Government of Manipur (Allocation) Rules. We are not supposed to discuss the Rules of Business of the Government of Manipur and the Business of the Government of Manipur (Allocation) Rules inasmuch as Secretary (Power), Government of Manipur in particular is expected to have a thorough knowledge of the Rules of Business of the Government of Manipur and the Business of the Government of Manipur (Allocation) Rules.

[5] Under Section 48 of the Manipur Lokayukta Act, 2014, Governor is to place a copy of the Annual Report of Manipur Lokayukta with a memorandum explaining, in respect of the cases, if any, where the advice of the Lokayukta was not accepted along with the reasons for such non-acceptance to be laid before the Manipur Legislative Assembly. For convenience, Section 48 of the Manipur Lokayukta Act, 2014 is quoted hereunder:

“48. It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the advice of the Lokayukta was not accepted, the reason for such non- acceptance to be laid before the Manipur Legislative Assembly.”

[5.1] Section 48 of the Manipur Lokayukta Act, 2014 is to be interpreted on the basis of the principle as to how it is to be interpreted under the law and also that one cannot be condemned unheard. Section 48 clearly states that reason for non-compliance is to be laid before the Manipur Legislative Assembly. Under the principle of Fair Play and principle of Natural Justice, the matter regarding non-acceptance of the recommendation of Manipur Lokayukta cannot be heard behind the back and knowledge of Manipur Lokayukta. As such, Manipur Lokayukta should be made known of the reason(s) for coming to the finding that it is not feasible to accept the recommendations at present due to administrative reasons. It is already stated above that “administrative reasons” is a finding but what are the reasons for coming to the said finding is not spelt out. Further, what are the reasons for coming to the said decision cannot be supplemented by way of affidavit and subsequent order(s). Validity and otherwise of the said letter of the Secretary (Power), Government of Manipur dated 17.02.2022 is to be decided with reference to the language used in the said letter itself. There cannot be opaqueness in the administration but there should be transparency in administration.

[6] For the foregoing reasons, relevant record(s) of the Power Department, Government of Manipur should be placed before Manipur Lokayukta by the Secretary (Power), Government of Manipur in person

on **21.03.2022**. Further, Chief Secretary, Government of Manipur, on his part, is to send a Senior Officer from the Department of Personnel (DP), Government of Manipur dealing with appointment/posting/transfer etc. of HODs on **21.03.2022**.

[7] Deputy Registrar, Manipur Lokayukta is directed to send a copy of this order to:

- i) the Chief Secretary, Government of Manipur;
- ii) the Secretary (Power), Government of Manipur; and
- iii) Parties of the present case, for information.

Sd/-
MEMBER

Sd/-
CHAIRPERSON