

GAHC020008512024



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : WP(C)/318/2024

SMTI. MEYARENLA IMCHEN
ASSISTANT TEACHER,
2ND NAP HIGHER SECONDARY SCHOOL, ALICHEN,
MOKOKCHUNG-798601, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND,
KOHIMA 2:THE HOME COMMISSIONER
NAGALAND
KOHIMA

3:THE DIRECTOR GENERAL OF POLICE
POLICE HEADQUARTERS
NAGALAND
KOHIMA

4:THE COMMANDANT

2ND NAP BATTALION
ALICHEN
MOKOKCHUN

Advocate for the Petitioner : SENTIYANGER, V ANNE THERIE, KONLI
BUCHEM

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

06.02.2025

Heard Mr. Sentiyanger, learned counsel for the petitioner and Ms. S Chang, learned Government Advocate, Nagaland for the respondent Nos. 1 to 4.

2) The Commandant 2nd NAP Battalion, Alichen, Mokokchung, Nagaland by an order dated 26.09.1995 appointed the petitioner as an Assistant Teacher in the Unit School, 2nd NAP Battalion, Alichen, Mokokchung, Nagaland.

3) By a subsequent order dated 22.11.2024, the respondent No. 4 gave retirement to the petitioner w.e.f. 01.01.2025, as per the amended Service Rules for Teachers of 2nd NAP Battalion, Higher Secondary School, Alichen, Mokokchung, Nagaland.

4) Earlier as per the Service Rules for Private Teachers of 2nd NAP Battalion, Higher Secondary School, Alichen, Mokokchung, Nagaland retirement age of a teacher was counted from the date of appointment for a period of 35 years or up to 60 years of age, whichever is earlier. By the new amendment of Service Rules for teachers of 2nd NAP Battalion, Higher Secondary School, Alichen, Mokokchung, Nagaland of November 2024, the retirement age of teachers was reduced from 35 years to 25 years, counting from the date of appointment.

5) The contention of the petitioner herein is that as per the Provisions of the Nagaland Retirement from Public Employment Act, 1991, amended in the year 2009 is applicable to the entire State of Nagaland and a person under public employment shall hold the office for a term of 35 years from the date of appointment to the public employment or until the said employee attains 60 years of age, whichever is earlier.

6) In the case is hand, the petitioner has neither completed 35 years of service nor attained the age of 60 years as an Assistant Teacher in said Unit School, 2nd NAP Battalion, Alichen, Mokokchung, Nagaland.

7) Hence, this writ petition by the petitioner, challenging the amendment of the Service Rules for teachers of 2nd NAP Battalion, Higher Secondary School, Alichen, Mokokchung, Nagaland by reducing the age of retirement from 35 years to 25 years, which according to the petitioner is ultra vires and in violation of the Nagaland Retirement from Public Employment Act, 1991 as amended.

8) Issue notice, returnable by **04.03.2025**.

9) As Ms. S Chang, learned Government Advocate, Nagaland has accepted notice on behalf of the respondent Nos. 1 to 4, no formal notice need be issued to those respondents.

10) Petitioner shall serve requisite extra copies of this writ petition including the Annexures appended thereto, to Ms. S Chang, learned Government Advocate, Nagaland by tomorrow, obtaining necessary acknowledgment from her in that regard.

11) The impugned order under No. 2 NAP(A)163/2024-25/2055 dated 22.11.2024 issued by the Commandant 2nd NAP Battalion, Alichen, Mokokchung, Nagaland (Annexure-6 to this petition) retiring the petitioner w.e.f. 01.01.2025 shall be subject to the outcome of this writ petition.

12) List accordingly.

JUDGE

Comparing Assistant