

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

[I] WRIT APPEAL NO.111 OF 2022

Gunabati Kangabam, aged about 34 years, D/o. (Late) Jayanta Kumar Singh Kangabam, resident of Haobam Marak Chingtham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.

...Appellant

-Versus-

1. The State of Manipur, through its Addl. Chief Secretary (Fishery), Government of Manipur, having its office at Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Director of Fisheries, Manipur having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur-795001.
3. The Manipur Public Service Commission through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

.... Principal Respondents

4. Keisham Dineshwar Singh, Fishery Inspector, resident of Haobam Marak Keisham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
5. Elangbam Rameshwar Singh, Fishery Inspector, resident of Lamphel Sanakeithel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.
6. Lairenlakpam Lindali Chanu, Fishery Inspector, resident of Sagolband Tera Keithel Maibi Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.

.....Private Respondents

WITH

[II] WRIT APPEAL NO.112 OF 2022

Loveson Golmei, aged about 29 years, S/o. Ajin Golmei, resident of Daithaolong Village, Khoupum, P.O. & P.S. Khoupum, Noney District, Manipur PIN-795001.

....Appellant

-Versus-

1. The State of Manipur, through its Addl. Chief Secretary (Fishery), Government of Manipur, having its office at Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.
2. The Director of Fisheries, Manipur, having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.
3. The Manipur Public Service Commission, through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

.... Principal Respondents

4. Keisham Dineshwar Singh, Fishery Inspector, resident of Haobam Marak Keisham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
5. Elangbam Rameshwar Singh, Fishery Inspector, resident of Lamphel Sanakeithel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.
6. Lairenlakpam Lindali Chanu, Fishery Inspector, resident of Sagolband Tera Keithel Maibi Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.

AND

[III] WRIT APPEAL NO.115 OF 2022

1. Gunabati Kangabam, aged about 34 years, D/o. (Late) Jayanta Kumar Singh Kangabam, resident of Haobam Marak Chingtham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
2. Loveson Golmei, aged about 29 years, S/o. Ajin Golmei, resident of Daithaolong Village, Khoupum, P.O. & P.S. Khoupum, Noney District, Manipur PIN-795001.

....Appellants

-Versus-

1. Keisham Dineshwar Singh, Fishery Inspector, aged about 54 years, S/o. (L) K. Tombi Singh, resident of Haobam Marak Keisham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
2. The State of Manipur, through its Addl. Chief Secretary (Fishery), Government of Manipur, having its office at Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.
3. The Under Secretary (Fishery), Government of Manipur, Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.
4. The Director of Fisheries, Manipur, having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.
5. The Manipur Public Service Commission, through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

... Respondents

WITH

[IV] MC(WA) NO.202 OF 2022

Ref:-WRIT APPEAL NO.111 OF 2022

Gunabati Kangabam, aged about 34 years, D/o. (Late) Jayanta Kumar Singh Kangabam, resident of Haobam Marak Chingtham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.

...Applicant

-Versus-

1. The State of Manipur, through its Addl. Chief Secretary (Fishery), Government of Manipur, having its office at Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Director of Fisheries, Manipur having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur-795001.
3. The Manipur Public Service Commission, through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

.... Principal Respondents

4. Keisham Dineshwar Singh, Fishery Inspector, resident of Haobam Marak Keisham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
5. Elangbam Rameshwar Singh, Fishery Inspector, resident of Lamphel Sanakeithel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.

6. Lairenlakpam Lindali Chanu, Fishery Inspector, resident of Sagolband Tera Keithel Maibi Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN-795001.

.....Private Respondents

WITH

[V] MC(WA) NO.9 OF 2023

Ref:-WRIT APPEAL NO.111 OF 2022

Elangbam Rameshwor Singh, aged about 58 years, Fishery Inspector, resident of Lamphel Sanakeithel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.

...Applicant

-Versus-

1. Gunabati Kangabam, aged about 34 years, daughter of Late Jayanta Kumar Singh Kangabam, resident of Haobam Marak Chingtham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
2. The State of Manipur, through the its Addl. Chief Secretary (Fishery), Government of Manipur, Old Secretariat Building, South Block, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. The Director of Fisheries, Manipur, having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.
4. The Manipur Public Service Commission, through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
5. Keisham Dineshwar Singh, Fishery Inspector, resident of Haobam Marak Keisham Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur-795001.
6. Lairenlakpam Lindali Chanu, Fishery Inspector, resident of Sagolband Tera Keithel Maibi Leirak, P.O. Imphal P.S. Lamphel, Imphal West District, Manipur. PIN-795001.

..... Respondents

WITH

[VI] MC(WA) NO.10 OF 2023

Ref:-WRIT APPEAL NO.112 OF 2022

Elangbam Rameshwor Singh, aged about 58 years, Fishery Inspector, resident of Lamphel Sanakeithel, P.O. & P.S. Lamphel, Imphal West District, Manipur. PIN-795004.

...Applicant

-Versus-

1. Loveson Golmei, aged about 29 years, son of Ajin Golmei, resident of Daothaolong Village, Khoupum, P.O. and P.S. Khoupum, Noney District, Manipur-PIN No.795159.
2. The State of Manipur, through its Addl. Chief Secretary (Fishery), Government of Manipur, Old Secretariat Building, South Block, P.O. and P.S. Imphal, Imphal West District, Manipur-795001.
3. The Director Fisheries, Manipur having its office at Lamphel, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.

4. The Manipur Public Service Commission, through its Secretary, having its office at AT Road, Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
5. Keisham Dineshwar Singh, Fishery Inspector, resident of Haobam Marak Keisham Leikai, P.O. Imphal, P.S. Singjamei, Imphal West District, Manipur-795001.
6. Lairenlakpam Lindali Chanu, Fishery Inspector, resident of Sagolband Tera Keithel Maibi Leirak, P.O. Imphal P.S. Lamphel, Imphal West District, Manipur. PIN-795001.

..... Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR.JUSTICE AHANTHEM BIMOL SINGH

For the Appellants	:: Mr. K.Roshan, Advocate Ms. Donnapriya Asem, Advocate
For the Respondents	:: Mr. Athouba Khaidem, Govt. Advocate Mr.R.S.Reisang, Sr. Advocate Mr. A. Mohendro, Advocate Mr.Th.Tolapishak, Advocate Mr.I.Denning, Advocate
Date of reserving Judgment	:: 27.01.2023
Date of delivery of Judgment	:: 03.02.2023

COMMON JUDGMENT AND ORDER (CAV)

Sanjay Kumar, C.J.,

[1] The post of Fishery Officer in the Fisheries Department of the Government of Manipur is governed by the 'Fishery Department, Manipur (Fishery Officer) Recruitment Rules, 1996'. It is a selection post which is to be filled by promotion of eligible candidates from the feeder categories of Fishery Inspector/Fishery Extension Assistant/ Fishery Instructor/Research Assistant, who possess the prescribed qualifications and experience. Promotion is to be effected upon recommendation by a Class-II Departmental Promotion Committee (DPC). Note 1 appended to the Tabular Statement in the recruitment rules provides that where a person is considered for appointment, all persons possessing the requisite qualification and who are senior to him in the grade shall also be considered irrespective of whether or not they fulfill the

requirement as to minimum qualifying service prescribed for the purpose of promotion. Note 2 states that any period of ad-hoc appointment prior to regularization of appointment should not be counted towards the minimum period of service prescribed for promotion.

[2] Office Memorandum dated 15.05.2014 was issued by the Department of Personnel & Administrative Reforms (Personnel Division), Government of Manipur, revising the existing instructions and consolidating the guidelines to be followed by Departmental Promotion Committees (DPCs). Clause 3 of the guidelines provides that DPCs should be convened at regular annual intervals to draw up panels for making promotions against vacancies occurring during the course of the year.

[3] However, no promotions were made to the post of Fishery Officer, be it for whatever reason, during the years 2015-2016 (1 vacancy reserved for ST), 2016-2017 (1 unreserved vacancy), 2018-2019 (1 vacancy reserved for ST) and 2019-2020 (3 unreserved vacancies and 2 vacancies reserved for ST). Thereupon, the Fisheries Department, Government of Manipur, addressed letters dated 05.09.2019, 20.12.2019 and 26.08.2020 to the Manipur Public Service Commission (MPSC) to convene a DPC for making appointments by promotion to these eight vacant posts of Fishery Officer. The Administrative Department is stated to have recommended the names of ten eligible officers who satisfied the prescriptions under the recruitment rules. However, the names and details of these ten officers are not placed on record. As per the affidavit-in-opposition filed by the Secretary, MPSC, Imphal, the Administrative Department submitted the ACRs of only nine Fishery Instructors/Fishery Inspectors, under its letter dated 20.12.2019. Thereafter, one more officer was added and the Administrative Department requested the MPSC to consider their candidatures.

[4] The combined Final Seniority List, as on 31.08.2019, of Fishery Inspectors/ Fishery Instructors/Fishery Extension Assistants was communicated to the MPSC, under the letter dated 04.09.2019 of the Director of Fisheries, Manipur. Therein, Keisham Dineshwar Singh stood at Sl.No.7 and Elangbam Rameshwor Singh stood at Sl.No.8. Lairenlakpam Lindali Chanu stood at Sl.No.13 while Gunabati Kangabam stood at Sl.No.18 and Loveson Golmei stood at Sl. No.34. The Administrative Department furnished Integrity Certificates of only eight out of the ten officers named by it. The MPSC constituted a Class-II DPC that held a meeting on 16.11.2020 and recommended Keisham Dineshwar Singh, Elangbam Rameshwor Singh and Lairenlakpam Lindali Chanu for promotion against the three unreserved vacancies and carried forward one unreserved vacancy and four vacancies reserved for STs to the next recruitment year.

[5] However, the Government of Manipur was unhappy with the MPSC's recommendation in so far as Lairenlakpam Lindali Chanu was concerned. The Under Secretary, Fishery Department, Government of Manipur, addressed letter dated 30.11.2020 to the Deputy Secretary of the MPSC stating that no proposal had been sent in respect of this candidate and as such, there was no approval of the Administrative Department for her candidature being considered. He pointed out that no record of her ACRs, Vigilance Clearance/Integrity Certificate, etc. had been forwarded and the same were important criteria for her being considered for promotion. He also pointed that the Director of Fisheries, being the Head of the Department, was not a member of the DPC which held proceedings on 16.11.2020. The Under Secretary therefore requested the MPSC to review the DPC dated 16.11.2020 at an early date.

[6] According to the Under Secretary, Lairenlakpam Lindali Chanu was not eligible for promotion to the post of Fishery Officer but no details were disclosed as to

why she was considered ineligible under the recruitment rules. At this stage, it may be noted that the eligibility prescribed for a Fishery Inspector/Fishery Extension Assistant/Fishery Instructor, who possesses a Diploma, is three years of regular service in the grade. Those who only possessed a one-year Certificate in Fishery Science obtained from a Centre recognized by the Central Institute of Fisheries Education (CIFE) were required to have five years of regular service in the grade.

[7] Claiming that they were overlooked, despite being eligible in terms of the aforesaid stipulations in the recruitment rules, Gunabati Kangabam and Loveson Golmei approached this Court. Gunabati Kangabam filed W.P(C) No.40 of 2021 stating that she completed her one-year Diploma Course in Inland Fisheries and Aquaculture Management from ICAR-CIFE, Kolkata Centre, as evidenced by the Provisional Certificate dated 28.04.2018 issued by the ICAR-CIFE, Kolkata Centre. She therefore sought setting aside of the DPC proceedings held on 16.11.2020 and a consequential direction to hold a Review DPC meeting. On similar lines, Loveson Golmei filed W.P(C) No.41 of 2021 stating that he also had completed the one-year Diploma Course in Inland Fisheries and Aquaculture Management from the ICAR-CIFE, Kolkata Centre, as evidenced by the Provisional Certificate dated 28.04.2018 issued by the ICAR-CIFE, Kolkata Centre, but his candidature was overlooked by the DPC . He also prayed for the same reliefs as were prayed for by Gunabati Kangabam.

[8] These writ petitions were filed on 16.01.2021. By orders dated 18.01.2021 passed in both the writ petitions as an interim measure, a learned Judge of this Court directed that no appointment should be made to the post of Fishery Officer on the basis of the recommendations made by the DPC in its meeting held on 16.11.2020 without the leave of this Court.

[9] While so, W.P(C) No.151 of 2021 was filed by Keisham Dineshwar Singh in December, 2021, assailing the letter dated 30.11.2020 of the Under Secretary, Fishery Department, Government of Manipur, requesting the MPSC to hold a Review DPC. He sought a further direction to the State authorities to consider his representation dated 05.02.2021 by issuing a speaking order, so as to enable him to occupy the promotional post without further delay. Miscellaneous cases were also filed by Keisham Dineshwar Singh in W.P(C) Nos.40 and 41 of 2021 to vacate the interim orders dated 18.01.2021 passed therein.

[10] The three writ petitions and the miscellaneous cases were taken up for joint hearing and by common judgment and order dated 11.10.2022, a learned Judge of this Court dismissed W.P(C) Nos.40 and 41 of 2021 filed by Gunabati Kangabam and Loveson Golmei; vacated the interim orders passed therein; and allowed W.P(C) No.151 of 2021 filed by Keisham Dineshwar Singh, by setting aside the letter dated 30.11.2020 issued by the Under Secretary, Fishery Department, Government of Manipur, in so far it pertained to him. The learned Judge directed the authorities to consider Keisham Dineshwar Singh's representation dated 05.02.2021 and pass orders thereon to enable him to enjoy the promotion post as per the DPC dated 16.11.2020.

[11] Aggrieved by the common judgment and order dated 11.10.2022 dismissing their writ petitions, viz., W.P (C) Nos. 40 and 41 of 2021, Gunabati Kangabam and Loveson Golmei filed W.A. No.111 of 2022 and 112 of 2022 respectively. Thereafter, upon seeking leave, they filed WA No.115 of 2022 against the common judgment and order dated 11.10.2022 in so far as it pertained to W.P(C) No.151 of 2021 filed by Keisham Dineshwar Singh. MC(WA) No.202 of 2022 was filed by Gunabati Kangabam in WA No.111 of 2022 seeking to place on record the affidavit-in-opposition filed by

Lairenlakpam Lindali Chanu in W.P(C) No. 40 of 2021 as it had been left out by oversight. The miscellaneous case is ordered and the affidavit-in-opposition is taken on record. MC(WA) Nos.9 and 10 of 2023 were filed by Elangbam Rameshwor Singh in WA Nos.111 and 112 of 2022 respectively seeking to place on record certain additional documents. These miscellaneous cases are also ordered and the said documents are taken on record.

[12] Heard Mr. K.Roshan Singh and Ms. Donnapriya Asem, learned counsel appearing for Gunabati Kangabam and Loveson Golmei; Mr. Athouba Khaidem, learned Government Advocate appearing for the State authorities; Mr. Th.Tolapishak, learned counsel, appearing for Elangbam Rameshwor Singh; Mr. Irom Denning, learned counsel appearing for Keisham Dineshwar Singh; Mr. A.Mohendro Singh, learned counsel appearing for Lairenlakpam Lindali Chanu; and Mr. R.S.Reisang, learned senior counsel appearing for the MPSC.

[13] The stand of the State authorities is that Gunabati Kangabam and Loveson Golmei were not eligible as per the recruitment rules to be considered for promotion to the post of Fishery Officer at the relevant point of time. As per the affidavits-in-opposition filed by the State authorities in their writ petitions, Gunabati Kangabam and Loveson Golmei had enclosed Provisional Certificates which only stated that they had successfully attended the one-year Post Graduate Diploma in Inland Fisheries and Aquaculture Management during the Academic Year 2017-18 but there was no mention therein that they had passed the said course. It was further stated that they had failed to produce certificates in proof of successfully completing the Diploma, as required under the rules. It was on this basis that the State authorities justified excluding Gunabati Kangabam and Loveson Golmei from the list of eligible candidates forwarded

to the MPSC. It is, however, a matter of record that Gunabati Kangabam and Loveson Golmei were both nominated for undergoing the Diploma Course in Inland Fisheries and Aquaculture Management at the ICAR-CIFE, Kolkata Centre, along with Elangbam Rameshwor, Lairenlakpam Lindali Chanu and others, ten in all, under letter dated 27.04.2017 of the Deputy Secretary, Fishery Department, Government of Manipur. Thereupon, the Officer-in-Charge, ICAR-CIFE, Kolkata Centre, addressed letter dated 21.08.2017 to the Director, Department of Fisheries, Manipur, informing him that all the ten Fishery Inspectors/equivalents had joined at the ICAR-CIFE, Kolkata Centre, for the one-year Post Graduate Diploma Course in Inland Fisheries and Aquaculture Management. It appears that, after successful completion of the Diploma Course, issuance of the Diploma Certificates was delayed in the case of some of those who attended the course. Gunabati Kangabam and Loveson Golmei were amongst those unfortunate persons. Both of them were only provided Provisional Certificates dated 28.04.2018 by the ICAR-CIFE, Kolkata Centre, stating that they had 'successfully attended' the one-year Post Graduate Diploma in Inland Fisheries and Aquaculture Management during the Academic Year 2017-18.

[14] It was only on 05.02.2021 that the Officer-in-Charge, ICAR-CIFE, Kolkata Centre, addressed a letter to the Director, Directorate of Fisheries, Government of Manipur, requesting him to distribute the nine Original Certificates enclosed therewith to the named trainees who had undergone the one-year Post Graduate Diploma in Inland Fisheries and Aquaculture Management during the Academic Year 2017-18. Gunabati Kangabam, Loveson Golmei, Lairenlakpam Lindali Chanu and Elangbam Rameshwor Singh find mention amongst the nine trainees named in this letter. By way of their reply affidavits filed in February, 2022, in response to the affidavits-in-

opposition of the State authorities, Gunabati Kangabam and Loveson Golmei placed on record the Diploma Certificates issued to them. However, this factual aspect was completely overlooked by the learned Judge in his common judgment and order dated 11.10.2022 and it was erroneously observed therein that neither of them had produced the result/pass certificates of the said Diploma Course. The conclusion drawn by the learned Judge that in the absence of any such pass certificates/results and based on the Provisional Certificates issued by the Principal of the Central Institute of Fisheries Education, Kolkata Centre, it could not be said that the petitioners in W.P(C) No.40 and 41 of 2021 possessed one-year PG Diploma, therefore cannot be sustained.

[15] As already stated *supra*, the State authorities did not elaborate as to why they were of the opinion that Lairenlakpam Lindali Chanu was not eligible to be appointed by promotion to the post of Fishery Officer. However, given the fact that she was also amongst the trainees whose Original Certificates of passing the PG Diploma Course were delayed, it may be logically inferred that she also suffered from the same alleged ineligibility that was attributed to Gunabati Kangabam and Loveson Golmei. It may be noted that Elangbam Rameshwor Singh was also furnished his Diploma Certificate only in February, 2021, but he secured letter dated 01.02.2020 from the Officer-in-Charge, ICAR-CIFE, Kolkata Centre, stating to the effect that he had 'successfully passed' the course in April, 2018. The letter further stated that his original certificate would be issued in due course of time. Therefore, the fault, if any, seems to have been on the part of the ICAR-CIFE, Kolkata Centre, which was not consistent in the manner in which it communicated successful completion of the course to the trainees. For some, the phrase 'successfully attended' was used, while for others, the words 'successfully passed' were used, but the fact remains that all of them had,

in fact, successfully passed the course within time and only issuance of Diploma Certificates was delayed. Such delay was attributable to the ICAR-CIFE, Kolkata Centre, and the trainees cannot be victimized or penalized therefor.

[16] In effect, the State authorities were not correct in excluding such persons from the list of eligible officers forwarded to the MPSC for consideration. The very fact that the Provisional Certificates indicated that they had 'successfully' attended the Diploma Course implied that they had passed the course. Otherwise, the use of the word 'successful' in the said Provisional Certificates had no meaning. It may also be noted that the MPSC, in its wisdom, sought a clarification from the Administrative Department as regards the candidature of Lairenlakpam Lindali Chanu and, in the absence of a clarification, the MPSC proceeded to consider her candidature by treating her as an eligible candidate, resulting in her being recommended for promotion. Surprisingly, no such step was taken in relation to either Gunabati Kangabam or Loveson Golmei, though their details were available with the MPSC, in the light of the communication of the Final Seniority List under the letter dated 04.09.2019 of the Director of Fisheries, Manipur.

[17] Reference may now be made to the Office Memorandum dated 15.05.2014 whereby consolidated guidelines were prescribed for DPCs. Clause 4B therein deals with calculation of vacancies and Clause 4.2 thereunder states that departments have to calculate the vacancies financial year-wise for reporting them to the DPC for preparation of a Select Panel, unless the relevant recruitment rules specify otherwise. Clause 4C is titled 'Crucial date for determining eligibility' and Clause 4.3 thereunder provides that the crucial date for determining eligibility of officers for promotion would be as per applicable recruitment rules and if the said rules are silent, the crucial date

for that purpose would be 1st October. Clause 5 deals with the procedure to be observed by the DPCs and Clause A thereunder prescribes the selection method. For vacancies above 1 and up to 10, the normal size for the zone of consideration is twice the number of vacancies plus four and the extended zone of consideration for SCs/STs is five times the number of vacancies. Therefore, for the eight vacant posts of Fishery Officer notified to the MPSC for consideration by the DPC on 16.11.2020, the number of eligible officers from the feeder categories who had to be considered should have been far more than just ten. All the more so, as Note 1 in the recruitment rules made it clear that seniors who had less than the prescribed length of service were also to be included if a junior was considered eligible. There seems to have been no proper application of mind either by the State authorities or by the MPSC to the officers in the Final Seniority List, communicated under the letter dated 04.09.2019, who would be eligible for consideration in terms of the recruitment rules after giving effect to Note 1.

[18] Clause 10 of the Office Memorandum dated 15.05.2014 speaks of Review DPCs and provides that the proceedings of any DPC may be reviewed only if the DPC had not taken all material facts into consideration or if material facts were not brought to the notice of the DPC or if there were grave errors in the procedure followed by the DPC. The Clause further elaborates that it may be necessary to convene a Review DPC to rectify certain unintentional mistakes, such as, where eligible persons were omitted to be considered, amongst others.

[19] In the case on hand, this Court has no hesitation in holding that eligible candidates who had successfully passed the requisite Diploma Course and put in the required length of service were excluded from consideration. That apart, there may have been others who possess the requisite qualification but did not put in the

prescribed length of service but would still have to be included in the list of eligible officers, by virtue of Note 1 in the recruitment rules. Therefore, the DPC proceedings held on 16.11.2020 require to be reviewed.

[20] By order dated 08.12.2022, this Court directed that promotions made, if any, would be subject to further orders in these appeals. While so, the Deputy Secretary, Fishery Department, Government of Manipur, had issued order dated 07.11.2022 on the strength of the recommendation of the DPC held on 16.11.2020, quoting the common judgment and order dated 11.10.2022, presently under appeal, and appointed Keisham Dineshwar Singh and Elangbam Rameshwor Singh as Fishery Officers on regular basis. Surprisingly, though there was no such direction in the common judgment and order dated 11.10.2022, the Government of Manipur, in its wisdom, directed that their appointments should come into effect from 16.11.2020, *i.e.*, with retrospective effect. However, as this Court is of the opinion that eligible candidates were left out from consideration at the threshold by treating them as ineligible on wholly unsustainable grounds and as sufficient notified vacancies are still available, *i.e.*, two unreserved vacancies and four ST vacancies, there would be no impediment to the holding of a Review DPC in relation to the other eligible candidates, leaving aside Keisham Dineshwar Singh and Elangbam Rameshwor Singh. The Fishery Department, Government of Manipur, shall furnish a list of eligible officers in the feeder categories to be considered for appointment by promotion to these left-over vacancies out of the eight vacancies which were the subject matter of the DPC proceedings held on 16.11.2020 and the MPSC shall convene a Class II Review DPC for filling up these available vacancies. However, the consolidated merit list drawn up after the said Review DPC shall include the rankings of Keisham Dineshwar Singh and Elangbam

Rameshwor Singh, who shall take their places in the *inter se* merit list based on their performance in the earlier DPC held on 16.11.2020. Further, as the Government of Manipur, in its wisdom, deemed it appropriate to grant retrospective appointments to Keisham Dineshwar Singh and Elangbam Rameshwor Singh, those officers who are selected and recommended by the Review DPC to be held pursuant to this order, shall also be given similar benefit. The Fishery Department, Government of Manipur, shall communicate the list of eligible officers in the feeder categories to be considered by the Review DPC within four weeks from the date of receipt of a copy of this order. The said list shall be drawn up in accordance with the recruitment rules, keeping in mind the observations made hereinabove and shall include Gunabati Kangabam, Loveson Golmei and Lairenlakpam Lindali Chanu, as they are deemed to have completed the Diploma Course within time despite the fact that the Diploma Certificates were issued to them only thereafter. The Review DPC shall be held by the MPSC within six weeks from the date of communication of such list of eligible officers by the Fishery Department, Government of Manipur. It is made clear that the Review DPC shall be held only in the context of the left-over vacancies out of the eight vacancies which were under consideration by the DPC held on 16.11.2020 and shall not include any later vacancies that may have arisen after 2019-2020.

[21] The writ appeals are allowed to the extent indicated above.

MC(WA) No.202 of 2022 and MC(WA) Nos. 9 and 10 of 2023 are ordered.

In the circumstances, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR
Opendro