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

WP(C)No.433 of 2022

Shri Sorensangbam Nabadwip Singh, aged about 41 years old, S/o
S. Tomba Singh a resident of Kiyam Siphai, Amvreijam Leikai PO &
PS Thoubal, Thoubal District, Manipur

...Petitioner

– Versus –

1. The State of Manipur represented by the Principal Secretary/Commissioner, Consumer Affairs, Food and Public Distribution, Government of Manipur, Old Secretariat Block, PO & PS Imphal, Imphal West District, Manipur-795001.
2. The Director, Consumer Affairs, Food and Public Distribution, Government of Manipur, Sangaiprou FCS Complex, PO Imphal PS Lamphel, Imphal West District, Manipur-795001.

.... Respondents.

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Petitioner : Mr. HS Paonam Sr. Adv.

For the Respondents : Mr. KH. Athouba, GA

Date of reserved. : 31.07.2023

Date of Judgment & Order : 23.08.2023.

JUDGMENT & ORDER
(CAV)

[1] Heard Mr. HS Paonam, the learned senior counsel for the petitioner and Mr. Kh. Athouba, the learned Government Advocate for the respondents.

[2] This writ petition has been filed by the petitioner to quash the impugned order dated 11.5.2022 passed by the second respondent and to direct the respondents to reconsider the case of the petitioner for appointment to the post of Civil Supply Inspector in Consumer Affairs, Food and Public Distribution, Government of Manipur against the 16 available vacancies.

[3] The case of the petitioner is that pursuant to the advertisement dated 16.12.2017 the petitioner had applied for the post of Civil Supply Inspector and competed along with other eligible candidates in the recruitment process. The roll number of the petitioner is 3254(A) and he was successful in the written test. In the notification dated 3.1.2017, the roll number of the petitioner appeared at Serial No.6 of the ST category, however, the name of the petitioner was replaced by the name of Palmei Poupangai. Aggrieved by the same, the petitioner has filed W.P.(C) No.222 of 2017 before this Court and, by the order dated 16.7.2018, the said writ petition was dismissed. After the dismissal of the writ petition, on

12.1.2022, the petitioner approached the second respondent for providing certain information in regard to the vacancy position for the post of Civil Supply Inspector in CAF & PD Department and the petitioner has received information on 19.1.2022 stating that there are 16 vacancies in the Department. Thereafter, on 29.3.2022, the petitioner submitted a representation to the Hon'ble Chief Minister for considering his case for providing the benefit of appointment. Since no positive response received on the representation dated 29.3.2022, the petitioner again submitted two representations on 26.4.2022 and 27.4.2022 before the second respondent. The second respondent by the impugned order dated 11.5.2022 rejected the request of the petitioner on the ground that due to typographical mistake, the Role No.3254(A) occurring at Serial No.6 of ST category was wrongly typed and after acknowledging the mistake a corrigendum dated 3.1.2017 was issued rectifying the mistake. Challenging the same, the petitioner has filed the present writ petition.

[4] The respondents filed affidavit in opposition stating that due to typing mistake the roll number of the petitioner was wrongly inserted and the petitioner had applied for the post of Civil Supply Inspector under OBC category and, as such, his name could not be proposed in the ST category. It is stated that inserting the roll number of the petitioner in the select list of the ST category was a typographical mistake and a corrigendum was issued on the same day thereby correcting the error. It is stated that the overall mark obtained by the petitioner is much lower

than the overall marks obtained by the selected candidates both in the ST as well as OBC category. Based on the overall mark obtained by the petitioner, his name could never have been recommended in the select list of Civil Supply Inspector. After considering the existing facts, the representation of the petitioner was rejected. Hence, prayed for dismissal of the writ petition.

[5] Assailing the impugned order, the learned counsel for the petitioner submitted that since the petitioner found to be declared successful in the written test under Roll No.3254(A) and had also participated in the viva-voce under the same roll number and having regard to the vacancies now available in the Department, the petitioner should be considered for the post of Civil Supply Inspector.

[6] Mr. HS Paonam, the learned senior counsel further submitted that rejecting the representation of the petitioner by referring to the order of the dismissal of the earlier writ petition filed by him clearly shows the non-application of mind.

[7] The learned senior counsel urged that one cannot take advantage of their own wrong inasmuch as one cannot be victimized because of the commission and omission on the part of the authority. Therefore, the respondent authorities who are responsible for the controversy which left the petitioner as the victim of the circumstances, adequate reasonable consideration by way of extending the benefit of reconsideration against

one of the available post without disturbing the other candidate including the one bearing Roll No.3254 which is not found in the list of successful candidate in the written test would be equitable consideration acceptable to all concerned and a way which may not prejudice the interest of third party. Thus, a prayer has been made to reconsider the case of the petitioner for affording appointment to the post of Civil Supply Inspector.

[8] Per contra, Mr. Kh. Athouba, the learned Government Advocate for the respondents submitted that inserting the roll number of the petitioner in the select list of the ST category was a typographical mistake and a corrigendum was issued correcting the said error. The petitioner had applied for the post in question under OBC category and, therefore, his name could not be proposed in the ST category. The mark obtained by the petitioner is lower than the overall marks obtained by the selected candidates both in the ST as well as OBC.

[9] The learned Government Advocate further submitted that in W.P.(C) No.222 of 2017, this Court held that showing of Roll No.3254(A) in the list of successful candidates against the ST quota declared by the authorities was a clerical mistake, as the petitioner never recommended by the Selection Committee.

[10] The learned Government Advocate added that after thoroughly analyzing the representation of the petitioner, the representation of the petitioner was rejected on the ground (a) the petitioner was an OBC

candidate and insertion of roll number of the petitioner in the ST appointment list was typographical mistake and (b) the High Court in its order dated 16.7.2018 in W.P.(C) No.222 of 2017 had dismissed the writ petition stating that there is no merit in the petition as the petitioner was never recommended by the Selection Committee. As the name of the petitioner was not recommended by the Selection Committee as also the overall mark obtained by the petitioner is much lower than the mark obtained by the selected candidates, the learned Government Advocate prayed for dismissal of the writ petition.

[11] This Court considered the rival submissions and also perused the materials available on record.

[12] The case of the petitioner is that though he was shown to have been declared successful for appointment to the post of Civil Supply Inspector, he has not been given appointment and instead one Palmei Poupangai has been given appointment. The further case of the petitioner is that he was assigned Roll No.3254(A) and having shown to be declared successful in the result, denying appointment on the ground that there was typographical error in inserting the roll number of the petitioner in the select list is unacceptable. Further, taking into consideration the untold misery inflicted upon the petitioner and also number of posts available in the Department, the petitioner should be considered for appointment to the post of Civil Supply Inspector.

[13] Earlier the petitioner filed W.P.(C) No.222 of 2017 contending that though his name was shown to have been declared successful for appointment to the post of Civil Supply Inspector, he has not been given appointment and one Palmei Ponpangai was given appointment. By the order dated 16.7.2018, the said writ petition was dismissed by this Court holding that the controversy has arisen only because of the fact that the roll number of the petitioner which is 3254(A) has been shown against the name of Palmei Ponpangai at the time of declaration of the results. It is seen from the records of the proceedings of the selection committee that Palmei Ponpangai was one of the candidates who was recommended against the ST category for appointment to the aforesaid post of Civil Supply Inspector whose actual Roll Number is 3254 as shown in the corrigendum dated 3.1.2017 issued by the authorities in this regard, but due to certain mistakes, Palmei Ponpangai has been shown to having the Roll Number 3254(A) which actually belongs to the petitioner. Ultimately, the findings of this Court in the earlier round of litigation is that showing of Roll Number 3254(A) in the list of successful candidates against the ST quota declared by the authorities on 2.1.2017 was a clerical mistake as the petitioner was never recommended by the Selection Committee for appointment, for which, the authority also made necessary correction as mentioned in the corrigendum dated 3.1.2017. Resultantly, this Court dismissed the writ petition filed by the petitioner. Admittedly, the petitioner has not challenged the said order of this Court dated 16.7.2018.

[14] After the dismissal of the writ petition, the petitioner submitted several representations to the second respondent for considering his name for appointment to the post. The last representation of the petitioner is dated 27.4.2022, wherein, the petitioner, *inter alia*, stated that he had applied for the post of Civil Supply Inspector under OBC category and in view of the admit card issued by the competent authority by mentioning the Roll Number as 3254(A), it is only the petitioner who was declared as successful candidate for the post. The act of the officials concerned in regard to replacement of the name and roll number of the petitioner by one Palmei Poupangai is discriminatory to the extent that fundamental right of the petitioner has been deprived of.

[15] Admittedly, the aforesaid plea of the petitioner has been considered by this Court in the earlier round of litigation in W.P.(C) No.222 of 2017 and dismissed the said writ petition. Therefore, the petitioner cannot now canvass the same plea in this writ petition. While rejecting the representation of the petitioner, the second respondent stated as under:

"I am directed to refer to your letter No. Nil dated 27.04.2022 on the above subject and to states that in the notification no.1/910/2015-CAF&PD dated 3rd Jan., 2017, due to typographical mistake, the roll no.3254(A) occurring at Sl.No.6 of ST category was wrongly typed. After acknowledging the mistake a corrigendum was issued on 3rd January, 2017 rectifying the mistake.

The Hon'ble High Court of Manipur had also dismissed the petition, W.P.(C) No.222 of 2017 (Sorensangbam Nabadwip

Singh v. The state of Manipur & 2 Ors) filed by you on 16.07.2018 by giving the judgment that showing Roll No.3254(A) in the list of successful candidates against the ST quota was a clerical mistake.

Considering the facts and circumstances given above your request cannot be acceded.”

[16] In view of the categorical finding arrived at by this Court in the earlier round of litigation, this Court cannot find any infirmity in the order impugned. If this Court express any opinion on the merits of the impugned order, it would have a direct impact on the order passed by this Court in W.P.(C) No.222 of 2017. As stated supra, the wrong mentioning of the roll number and its correction thereafter has been considered by this Court in the earlier round of litigation instituted by the petitioner. In view of the above, this Court is not inclined to enter into the said factual aspect.

[17] Now the prayer of the petitioner is that there are 16 vacancies available in the Department and taking into consideration of the situation faced by the petitioner, his case has to be re-considered by the respondent authorities.

[18] According to the learned senior counsel for the petitioner, one cannot take advantage of their own wrong inasmuch as one cannot be victimized because of the commission and omission on the part of the authority. The respondent authorities are responsible for the controversy which left the petitioner as a victim of circumstances. Reasonable

consideration by way of extending the benefit of reconsideration against one of the available posts without disturbing the other candidate including Roll No.3254 would be equitable consideration.

[19] The petitioner had obtained RTI information dated 19.1.2022 in respect of the available vacancies for the post of Civil Supply Inspector. On a perusal of the same, it is seen that out of the sanctioned 71 posts, 55 posts have been filled and there are 16 vacancies available. The said letter has not been disputed by the respondents.

[20] The consideration of the petitioner to the post of Civil Supply Inspector in the existing vacancies is within the domain of the respondent authorities. Exercising jurisdiction under Article 226 of the Constitution of India, the High Court cannot issue any positive direction to the respondents to afford appointment to the post of Civil Supply Inspector to the petitioner, as prayed for by him. At the same time, the untold misery inflicted upon the petitioner cannot be ignored. Therefore, in the interest of justice, it would be appropriate to remit the matter to the respondent authorities for consideration of the case of the petitioner in accordance with law.

[21] In the result,

(i) The writ petition is disposed of.

(ii) The matter is remitted to the respondent authorities for considering the claim of the

petitioner and pass orders on merits and in accordance with law.

(iii) The said exercise shall be carried out by the respondent authorities within a period of three months from the date of receipt of a copy of this order.

(iv) There will be no order as to costs.

ACTING CHIEF JUSTICE

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