SHAMURAILATPAM SUSHIL SHARMA
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**IN THE HIGH COURT OF MANIPUR**
**AT IMPHAL**

**Writ Appeal No. 91 of 2023**
*Ref:- WP(C) No. 145 of 2017*

1. The State of Manipur through the Principal Secretary/Commissioner/Secretary (University & Higher Education), Government of Manipur.

2. The Director, University and Higher Education, Imphal – 795001, Manipur.

…***Appellants.***

***-Versus-***

1. Dr. Khumanthem Anupriya Devi, aged about 32 years old, D/o Kh. Dhanakumar Singh, resident of Kalinagar, Jiribam, P.O. & P.S. Jiribam, Jiribam District, Pin code – 795116, Manipur.

***…. Principal Respondent/ Writ Petitioner***

2. The Principal, Jiri College, Government of Manipur, Kadamtala, Jiribam – 795116, Manipur.

***…. Proforma Respondent***

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL**
**HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

| | | |
|---|---|---|
| For the Appellants | :: | Mr. Kh. Athouba, GA |
| For the Respondents | :: | Mr. A. Romenkumar, Sr. Adv. |
| Date of Hearing and Judgment & Order | :: | **20.11.2023** |

**JUDGMENT AND ORDER**
(ORAL)

*Siddharth Mridul (C.J.),*

1. We have heard learned counsel appearing on behalf of the parties with consent and perused the material on the record; and hereby proceed to decide the Writ Appeal No. 91 of 2023 itself, by way of the following order.

2. The present writ appeal assails the order dated 04.10.2018 rendered by the learned Single Judge of this Court allowing the Writ Petition (C) No. 145 of 2017 instituted on behalf of Dr. Khumanthem Anupriya Devi, whereby the State of Manipur was directed to absorb her as Assistant Professor in the department of Education vide order dated 26.03.2016 and joined on 06.04.2016.

3. Aggrieved by the said impugned order dated 04.10.2018, the State of Manipur instituted the present writ appeal, *albeit belatedly*. This Court dismissed the said application instituted on behalf of the State of Manipur seeking condonation of delay in filing the accompanying appeal, *vide* final judgment and order dated 22.07.2020 in MC(WA) No. 47 of 2020.

4. The State of Manipur carried the matter to the Hon'ble Supreme Court of India by way of Special Leave to Appeal (C) No. 13554 of 2020.

5. The Hon'ble Supreme Court set aside the said order dated 22.07.2020 vide its order dated 18th April, 2023; allowing the said Special Leave Petition No. 13554 of 2020 by observing and further directing as follows :-

> *"The writ petitioner approached the High Court seeking his absorption and this was allowed by the learned Single Judge. The reason as to why the appeal of the State failed before the Division Bench of the High Court has already been indicated by us earlier in this order. We found, however, from the judgment of the First Court that the issue of the writ petitioner fulfilling the eligibility criteria was not addressed to. On behalf of the State, it is argued that it was not their fault as it was the Managing Committee which did not send the name of the writ petitioner for absorption.*
>
> *In these circumstances, we are of the view that the Division Bench of the High Court ought to have examined as to whether the writ petitioner had fulfilled the eligibility criteria for the post in which he was directed to be absorbed. Rejection of the State's appeal solely on the ground of delay was not warranted in the facts of this case.*
>
> *We, accordingly, set aside the impugned judgment and direct the High Court to examine the appeal filed by the State on the question as to whether the writ petitioner fulfilled the eligibility criteria for being appointed in an aided college in the post he was inducted in and as to whether he*

*was eligible for absorption as a government employee, at par with other similarly situated candidates who were absorbed.*

*We also make it clear that in the event the State relies only 3 on the point that because his name was not sent by the concerned managing committee they could not absorb him, that stand would not be a tenable one as this aspect has already been addressed to by the First Court and we do not find any flaw in the reasoning of the First Court on that point.*

*In the event there is any maximum age limit for appointment to the post in question, then the date of the writ petitioner joining the aided college in the post in question shall be the relevant date for consideration.*

*The appeal stands disposed of in the above terms.*

*Pending application(s), if any, shall stand disposed of.*

*There shall be no order as to costs."*

6. A plain reading of the observations rendered by the Hon'ble Supreme Court leave no manner of doubt that whilst setting aside the order passed by the Coordinate Bench of this Court, by condoning the delay in filing the present writ appeal, the Supreme Court further directed that the Division Bench ought to examine the

said appeal from the standpoint of the issue, as to whether the writ petitioner fulfills the eligibility criteria for being appointed in the aided college in the post which she was inducted in and as to whether she was eligible for absorption as government employee, at par with other similarly situated candidates who were so absorbed. The Hon'ble Supreme Court vide the said order dated 18th April, 2023 further clarified that the argument of the State that the original writ petitioner was not absorbed because her name was not sent by the concerned managing committee, is untenable and would not be available to them in view of the unimpeachable findings arrived at by the learned Single Judge in this behalf, whilst disposing of the writ petition.

7. Our attention has been invited to the relevant original record in relation to the writ petitioner; which includes the proceedings of the meeting of the "Verification Committee" convened on the 18th March, 2021, for verification of service records of two left out teachers of Jiri College, Jiribam; which evidently includes her at Sl. No. 2. A perusal of the said minutes clearly and unequivocally reflects that the "verification committee", upon consideration of the documents related to the writ petitioner's educational qualifications, found her qualified for the post of Assistant Professor in the relevant subject college as per the 2010 Recruitment Rules.

8. In view of the foregoing, the substantial issue framed for the consideration of this Court by the Hon'ble Supreme Court, as elaborated hereinabove, stands answered in favour of the writ petitioner and against the writ appellant.

9. In other words, the writ petitioner, it is an admitted position, was qualified, as per the 2010 Recruitment Rules, from the initial date of his appointment to hold the subject post. Resultantly, the writ petitioner is axiomatically entitled to the benefit of absorption in the subject institution consequent upon the writ appellant taking the policy decision dated the 18th December, 2016, to take over the said aided college and absorb all the staffs employed therein.

10. Resultantly, the writ appeal fails and is accordingly dismissed.

11. The State of Manipur is hereby directed to absorb the writ petitioner in the post of Assistant Professor in the department of Education with effect from 6th April, 2016, forthwith.

**JUDGE** **CHIEF JUSTICE**

**FR/NFR**

*Sushil*