

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

MC(WP(C)) No. 319 of 2021

Ref:- WP(C) No. 690 of 2021

1. The State of Manipur represented by the Chief Secretary / Special Secretary (Home), Govt. of Manipur, office at Old Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur- 795001.

2. The Director General of Police (DGP), Manipur, office at PHQ Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur- 795001.

....Petitioners

-Versus-

1. Md. Doulat Khan, aged about 42 years, S/o Md.Khoma resident of Yairipok Singh Mayai Leikai, P.O. & PS. Yairipok, Thoubal District, Manipur.
2. Md. Hassan Ali, aged about 42 years, S/o (L) Md. Hayat Ali resident of Yairipok Tuliha Mayai Leikai, P.O. Yairipok, P.S. Andro, Imphal, Imphal East District, Manipur.
3. Kongbrailatpam Sachikumar Sharma, aged about 39 years, S/O K. Kamini Kumar Sharma resident of Khurai Puthiba Leikai, P.O. Lamlong. P.S. Porompat, Imphal East, Manipur.
4. Khumantham Kunje Singh aged about 45 years, S/o Kh. Chandrakumar Singh resident of Meitram Awang Leikai, P.O. Tuliha, P.S. Nambol. Imphal West District, Manipur.
5. Naorem Budha Singh aged about 45 years, S/o (L) N. Maipak Singh resident of Pangei Bazar, P.O. Pangei, P.S. Heingang, Imphal East, Manipur

6. Waikhom Amarjit Singh aged about 39 years, S/o W. Nilachandra Singh resident of Singjamei Wangma Pibiya Pandit Leikai, P.O. & PS. Singjamei, Imphal East, Manipur.

..... Respondents.

MC(WP(C)) No. 57 of 2022

Ref:- WP(C) No. 690 of 2021

Ashangbam John Fellow, aged about 35 years old, S/o A. Dhananjoy Singh of Kakwa Laishram Selungba Leikai, P.O. and P.S. Singjamei, District Imphal West, Manipur.

Applicant

-Versus-

1. Md. Doulat Khan, aged about 42 years, S/o Md.Khoma resident of Yairipok Singh Mayai Leikai, P.O. & PS. Yairipok, Thoubal District, Manipur.
2. Md. Hassan Ali, aged about 42 years, S/o (L) Md. Hayat Ali resident of Yairipok Tuliha Mayai Leikai, P.O. Yairipok, P.S. Andro, Imphal, Imphal East District, Manipur.
3. Kongbrailatpam Sachikumar Sharma, aged about 39 years, S/o K. Kamini Kumar Sharma resident of Khurai Puthiba Leikai, P.O. Lamlong. P.S. Porompat, Imphal East, Manipur.
4. Khumantham Kunje Singh aged about 45 years, S/o Kh. Chandrakumar Singh resident of Meitram Awang Leikai, P.O. Tuliha, P.S. Nambol, Imphal West District, Manipur.
5. Naorem Budha Singh aged about 45 years, S/o (L) N. Maipak Singh resident of Pangei Bazar, P.O. Pangei, P.S. Heingang, Imphal East, Manipur.

6. Waikhom Amarjit Singh aged about 39 years, S/o W. Nilachandra Singh resident of Singjamei Wangma Pibiya Pandit Leikai, P.O. & PS. Singjamei, Imphal East, Manipur.

..... Respondents.

MCWP(C)) No. 376 of 2022

Ref:- WP(C) No. 625 of 2021

Ningthoujam Kiranjit Singh, aged about 37 years old S/o Shri N. Thoiba Singh, resident of Wangkhei Ningthem Pukhri Mapal, P.O. and P.S. Porompat, Imphal East District, Manipur-795005.

..... Applicant

-VERSUS-

1. Kameidun Kamei James, aged about 37 years, S/o K. Ibohal a resident of Keikhu Kabui Village, P.O. Singjamei & P.S. Irilbung, District Imphal East, Manipur and another.
2. L.T. Solomon Khongsai, aged about 37 years, S/o (L) L.T. Ngamsei Khongsai, a resident of Zomi Villa, P.O. Imphal & P.S. Imphal, District Imphal West, Manipur.
3. The State of Manipur represented by the Chief Secretary/Special Secretary (Home), Govt. of Manipur, office at Old Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
4. The Director General of Police (DGP), Manipur, office at PHQ Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

5. Ashangbam Keshorjit Singh, aged about 41 years old S/o (L) A. Satyabanta of Keishamthong Elangbam Leikai, P.O. and P.S. Imphal, District Imphal West, Manipur-795001.

.....Respondents.

MC(WP(C)) No. 208 of 2023

Ref:- WP(C) No. 625 of 2021

Ashangbam Keshorjit Singh, aged about 42 years old, S/o (L) A. Satyabanta Singh of Keishamthong Elangbam Leikai, P.O. and P.S. Imphal, District Imphal West, Manipur.

....Applicant

-versus-

1. Kameidun Kamei James, aged about 37 years, S/o K. Ibohal , a resident of Keikhu Kabui Village, P.O. Singjamei & P.S. Irilbung, District Imphal East, Manipur.
2. L.T. Solomon Khongsai, aged about 38 years, S/o (L) L.T. Ngamsei Khongsai, a resident of Zomi Villa, P.O. Imphal & P.S. Imphal , District Imphal West, Manipur.

...Respondents

3. The State of Manipur represented by the Chief Secretary/Special Secretary(Home), Govt. of Manipur, office at Old Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
4. The Director General of Police (DGP), Manipur, office at PHQ Imphal, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

...Proforma Respondents

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

For the applicants in MC(WP(C)) No. 319 of 2021	::	Mr. S. Niranjana, GA
For the applicants in MC(WP(C)) No. 57 of 2022	::	Mr. HS Paonam, Sr. Adv.
For the applicants in MC(WP(C)) No. 376 of 2022	::	
For the applicants in MC(WP(C)) No. 208 of 2023	::	
For the Respondents in MC(WP(C)) No. 319 of 2021 & MC(WP(C)) No. 57 of 2022	::	Mr. A. Mohendro, Adv.
For the Respondents in MC(WP(C)) No. 376 of 2022 & MC(WP(C)) No. 208 of 2023	::	
Date of Hearing and reserving Judgment & Order	::	10.08.2023
Date of Judgment & Order	::	

JUDGMENT AND ORDER
(CAV)

M.C.(WP(C)) No.319 of 2021 has been filed by the State to grant leave to publish the result of the DPC held on 26.11.2021 for appointment by promotion from the post of Havildar to Jemadar in the Manipur Police Department in view of the order dated 11.10.2021 of this Court passed in W.P.(C) No.690 of 2021 coupled with a prayer to vacate/modify the said order dated 11.10.2021.

2. M.C.(WP(C)) No.57 of 2022 has been filed by the third respondent in the writ petition to modify/vacate the interim order dated 11.10.2021 passed in W.P.(C) No.690 of 2021.
3. M.C.(WP(C)) No.208 of 2023 has been filed by the third respondent to alter/modify/vacate the ex parte interim order dated 20.9.2021 passed in W.P.(C) No.625 of 2021 and the order dated 29.12.2021 passed in MC (WP(C)) No.318 of 2021 in W.P.(C) No.625 of 2021.
4. M.C.(WP(C)) No.376 of 2022 has been filed by the applicant NingthoujamKiranjit Singh to implead him as fourth respondent in W.P.(C) No.625 of 2021.
5. Since all the four miscellaneous cases are interlinked with each other, they were heard together and disposed of by this common order.
6. The State had filed M.C.(WP(C)) No.319 of 2021 to vacate the interim order dated 11.10.2021 passed in W.P.(C) No.690 of 2021 on the ground that the writ petitioners therein are aggrieved by the Standing Order No.189 dated 15.4.2021 and its further amendments, which was issued in relation to 15% (out-of-turn) category. According to the State, the prayer of the writ petitioners to stall the entire process for promotion of 143 vacant

posts of Jemadars cannot be allowed. During the pendency of the said writ petition, the Manipur Police Department submitted proceedings of Class III DPC for promotion from Havildar to Jemadar held on 26.11.2021 along with relevant documents to Home Department vide letter dated 27.11.2021 for filling up of 143 posts of Jemadar by promotion from Havildar including 15% out-of-turn category. The non-filling up of the available vacancies of different posts, including the above vacant posts of Jemadar in time has seriously hampered the administration of policing in the present law and order situation in the State of Manipur. The grievance of the writ petitioners is confined to 15% out-of-turn category as provided under the Recruitment Rules of Jemadar and the grievance of the writ petitioners should not affect the whole administration of policing in the State. If leave is not granted to publish the result of the DPC held on 26.11.2021 for appointment by promotion from the post of Havildar to Jemadar, whose cases were considered by the DPC, much hardship would be caused not only to the State, but also the aggrieved persons.

7. Resisting M.C.(WP(C)) No.319 of 2021, the writ petitioners filed affidavit-in-opposition stating that the writ petitioners had challenged the Standing Order No.189 dated 15.4.2021 and its amendment, which is contrary to the Recruitment Rules of Jemadar. The writ petitioners claimed that

Recruitment Rules of Jemadar of Police, 2009 provides out-of-turn promotion quota of 15%. The writ petitioners have no intention to stall the entire process of promotion of 143 vacant posts, as the portion had already been declared except for 15% out-of-turn quota. The writ petitioners have already submitted relevant documents of proceedings of the Class III DPC for promotion from Havildar to Jemadar. As such continuation of the interim order is very much in need, as the respondent authorities are ready to declare the promotion any moment thereby defeating the legitimate claim of the writ petitioners. If this Court allowed to publish the result of the DPC held on 26.11.2021 for appointment by promotion from the post of Havildar to Jemadar in respect of 15% out-of-turn quota during the pendency of the writ petition, the writ petitioners would be put to irreparable loss and damage.

8. The third respondent in W.P.(C) No.690 of 2021 has filed M.C.(WP(C)) No.57 of 2022 praying to vacate the interim order dated 11.10.2021 on the ground that the awards acquired by the writ petitioners were never used in their service career for out-of-turn promotion. As such, it is in violation of Article 14 and 16 of the Constitution of India and utter disregard to the gallant act of the writ petitioners. Further, the writ petitioners have no locus standi to file the writ petition. They aware of the existence of the Standing Order prior to the filing of the writ petition and the

same was not objected to by them before the competent authority till date. The third respondent who has taken part in the said DPC for promotion to the next higher post of Jemadar has a right to know about the result of the DPC. Therefore, it is necessary to vacate the interim order dated 11.10.2021 so that the second respondent to the extent declare the result of the DPC for the post of Havildar to the next higher post of Jemadar under 15% out-of-turn category held on 26.11.2021 otherwise all the DPC faced candidates of the Police Department would suffer loss and injury.

9. The third respondent in W.P.(C) No.625 of 2021 has filed M.C.(WP(C)) No.208 of 2023 to vacate the interim orders granted on the ground that the said writ petition has been filed to quash the Standing Order No.189 dated 15.4.2021 as well as the DPC process for consideration of promotion to the post of Jemadar from Havildar for the recruitment year 2012-2013 to 2019-2020 under 15% out-of-turn category. The writ petitioners assailed the Standing Order *inter alia* on the ground that under the Recruitment Rules for the rank of S.I., Jemadar, ASI, Havildar and Head Constable, there is no provision of eligibility for out-of-turn promotion on considering Good Service Marks and that Rule A and Sub Rule C(1)(d) of the Standing Order No.189 dated 15.4.2021 is null and void. According to the third respondent, on 20.9.2021, this Court passed an interim order to the effect that if DPC is

conducted for promotion to the post of Jemadar, the result of the DPC shall not be published without the leave of the Court. Aggrieved by the said order, the State had filed M.C.(WP(C)) No.318 of 2021 for vacation of the interim order dated 20.9.2021. On 29.12.2021, after considering the arguments of the respective counsel, this Court modified the order thereby allowing the authorities to announce the result of the said DPC in respect of general category i.e. for promotion against 85% quota provided under the Recruitment Rules. However, the authorities were restrained from announcing the result of the DPC in respect of promotion against 15% quota for out-of-turn promotion without the leave of the Court.

10. It is stated by the third respondent that the writ petitioners have sought staying the declaration of the DPC for promotion to the post of Jemadar only on the apprehension that the writ petitioners will not be recommended for promotion to the post of Jemadar by the DPC held on the basis of the Standing Order No.189. It is an undisputed fact that the DPC for promotion to the post of Jemadar has been held and the result of the DPC in respect of 15% out-of-turn promotion quota is yet to be declared thereby giving cause of action to claim for stay of the DPC proceedings. Therefore, the order dated 29.12.2021 passed in M.C.(WP(C)) No.318 of 2021 restraining the authorities from

declaring the result of the DPC for promotion under the out-of-turn quota is liable to the vacated.

11. According to the third respondent, under the Recruitment Rules for the post of Jemadar, the Director General of Police has power to recommend persons under the 15% out-of-turn promotion quota. Since the writ petitioners have not challenged the powers of the Director General of Police, they cannot challenge the Standing Order issued to regulate the recommendation by the Director General of Police. A conjoint reading of Rule 43 and Rule 44 of Assam Police Manual Part-III would imply that a candidate who has been awarded Good Service Marks with the approval of the Director General of Police can be considered under the 15% out-of-turn quota. Therefore, there is nothing wrong with the Standing Order under challenge in the writ petition as well as the DPC held in terms of the Standing Order.

12. The case of the third respondent is that pursuant to the interim order dated 29.12.2021, result of the DPC was declared in respect of the general quota and eligible Havildars who have been recommended under 85% general quota and were given appointment followed by issuance of posting order. While so, despite the fact that the third respondent's case has also been

considered by the same DPC has been subjected to a situation where he is not in a position to ascertain as to whether he was recommended by the said DPC for promotion to the post of Jemadar or otherwise and also for enjoying the benefit of such promotion like other eligible candidates who have now given promotion on the basis of recommendation made by the same DPC. Therefore, a sense of discrimination and deprivation of right for promotion has been instilled upon the third respondent for no fault and has been deprived of the right of promotion to higher post.

13. Resisting the prayer made in M.C.(WP(C))No.208 of 2023, the writ petitioners *inter alia* stated that the order dated 29.12.2021 passed in MC No.318 of 2021 is a consequential order of earlier interim order dated 20.9.2021 passed in the writ petition when the third respondent is not a party respondent. The modification/alteration of earlier interim order dated 20.9.2021 passed in the same writ petition, the third respondent is not a party. Therefore, the order dated 29.12.2022 passed in MC No.318 of 2021 cannot be considered as *ex parte* interim order. It is stated that there is no provision of eligibility of out-of-turn promotion on considering the Good Service Marks in respect of all ranks stated under Rule A except for the rank of Inspector of Police in the relevant Recruitment Rules. Therefore, Rule A and

Sub Rule C(1)(d) in the Standing Order No.189 dated 15.4.2021 insofar as Good Service Marks is concerned, the same cannot stand in the eyes of law. The third respondent has filed the MC No.208 of 2023 after a gap of almost 2 years from the date of passing the interim orders that too after exchange of pleadings. The third respondent with ulterior motives, vested interest to dismantle the entire judicial process, approached this Court with dirty hands and minds and endeavor to deprive the fundamental and legal rights of the writ petitioners in considering promotion to the post of Jemadar from Havildars for the recruitment year 2012-2013 to 2019-2020 under 15% out-of-turn quota. According to the writ petitioners, it is necessary to restrain the State respondents from declaring the result of the DPC in respect of 15% out-of-turn quota promotion in view of the fact that while passing the interim order dated 20.9.2021 in W.P.(C) No.625 of 2021 and its consequential order dated 29.12.2021 passed in M.C. (WP(C)) No.318 of 2021, this Court had appreciated the case of the writ petitioners and after fully considering the balance of convenience and on seeing irreparable injury to the writ petitioners. As there is no provision of eligibility for out-of-turn promotion on considering Good Service Marks in respect of all ranks in the relevant Recruitment Rules, there is no necessity to vacate the interim orders passed in the said writ petition.

14. M.C.(WP(C)) No.376 of 2022 in W.P.(C) No.625 of 2021 has been filed by one NinghoujamKiranjit Singh to implead him as fourth respondent in the writ petition stating that he and the original writ petitioners were eligible candidates for consideration of promotion to the next higher post of Jemadar under 15% out-of-turn quota as provided under the Recruitment Rules and the connected Standing Orders have already faced a duly constituted regular DPC. The applicant who had already participated the aforesaid DPC for promotion from the post of Havildar to Jemadar under 15% out-of-turn quota has been affected and prejudiced by the *ex parte* interim order thereby the result of the said DPC could not be declared. Since the applicant who is already affected by the *ex parte* interim order and is more likely to be affected by any final adverse order is desirous of being impleaded as respondent No.4 in W.P.(C) No.625 of 2021 so as to enable him to contest the claims and contentions of the writ petitioners besides protecting his vested right to know the result of the DPC.

15. Mr. S. Niranjana, learned Government Advocate submitted that pursuant to the interim order dated 11.10.2021 passed in the writ petitions, the authorities have been restrained from publishing the result of the DPC held on 26.11.2021 for promotion to the post of Jemadar in Manipur Police Department

(M.R) under 15% out-of-turn promotion without the leave of the Court. The learned Government Advocate argued that the Manipur Police Department has submitted the proceedings of Class III DPC for promotion to the post of Jemadar from Havildar to the Home Department for filling up of 143 posts of Jemadars by promotion including 15% out-of-turn quota. The non-filling up of the available vacancies of different ranks including the vacant posts of Jemadar in Manipur Police Department is hampering the administration in the law and order in the State of Manipur. Therefore, leave may be granted to the State to publish the result of the DPC held on 26.11.2021 for appointment by promotion to the post of Jemadar by vacating the interim order dated 11.10.2021.

16. The learned counsel appearing for the third respondent in W.P.(C) No.690 of 2021 submitted that the third respondent who has taken part in the DPC for promotion to the next higher post of Jemadar under 15% out-of-turn quota has a right to know about the result of the DPC. Therefore, it would be in the interest of justice that this Court may pass an order vacating the interim order dated 11.10.2021 so as to enable the Director General of Police to declare the result of the DPC for the post of Havildar to the next post of Jemadar under 15% out-of-turn quota held on 26.11.2021. If the result of the DPC is not

published, all the DPC faced candidates namely the Havildars would put to irreparable loss and injury, which cannot be compensated by any amount.

17. Similarly, Mr. HS Paonam, learned senior counsel for the third respondent in W.P.(C) No.625 of 2021 submitted that on 20.9.2021, this Court had passed an interim order to the effect that if the DPC is conducted for promotion to the post of Jemadar, the result of the DPC shall not be published without the leave of the Court. Aggrieved by the said interim order, the State had filed M.C.No.318 of 2021 for vacation of the said interim order dated 20.9.2021. This Court, vide order dated 29.12.2021, allowed the State to declare the result of the DPC for promotion to the post of Jemadar held on 26.11.2021 in respect of general category and at the same time, the authorities were restrained from announcing the result of the DPC in respect of promotion against 15% out-of-turn quota without the leave of the Court. Since the said order is causing the injustice to the third respondent and others, the learned counsel prayed for vacation of the interim order dated 20.9.2021 passed in W.P.(C) No.625 of 2021 and the order dated 29.12.2021 passed in M.C.(WP(C)) No.318 of 2021.

18. Per contra, the learned senior counsel for the writ petitioners submitted that there is no provision of eligibility of out-

of-turn promotion on considering the Good Service Marks in respect of all ranks stated under Rule A, except for the rank of Inspector of Police in the relevant Recruitment Rules. Therefore, Rule A and Sub Rule C(1)(d) in the Standing Order No.189 dated 15.4.2021 insofar as Good Service Marks cannot stand and go together.

19. The learned senior counsel submitted that the writ petitioners have no intension to stall the entire process of promotion of 143 vacant posts, as portion of the vacant posts had already been declared, except for the 15% out-of-turn quota. According to the learned senior counsel, the State officials cannot go against the relevant Recruitment Rules and the existing law. If the result of the DPC held on 26.11.2021 for appointment by promotion to the post of Jemadar in respect of 15% out-of-turn quota during the pendency of the writ petitions is declared, the writ petitioners would be put to irreparable loss and damages.

20. The learned senior counsel for the writ petitioners in W.P.(C) No.625 of 2021 added that the third respondent in the said writ petition has filed MC(WP(C)) No.208 of 2023 after a gap of almost 2 years from the date of passing the interim orders that too after exchange of pleadings. The third respondent with

ulterior motives, vested interest to dismantle the entire judicial process, approached this Court with unclean hands and endeavor to deprive the fundamental and legal rights of the petitioners in considering promotion to the post of Jemadar from Havildar for the recruitment year 2012-2013 to 2019-2020 under 15% out-of-turn quota.

21. The learned senior counsel further submitted that it is necessary to restrain the State respondents from declaring the result of the DPC in respect of 15% out-of-turn quota promotion in view of the fact that while passing the interim order dated 20.9.2021 in W.P.(C) No.625 of 2021 and its consequential order dated 29.12.2021 passed in M.C. (WP(C)) No.318 of 2021, this Court appreciated the case of the writ petitioners. Only after considering the balance of convenience and on seeing irreparable injury to the writ petitioners, this Court passed the aforesaid interim orders. As there is no provision of eligibility for out-of-turn promotion on considering Good Service Marks in respect of all ranks in the relevant Recruitment Rules, there is no necessity to vacate the interim orders. Thus, prayed for dismissal of the miscellaneous cases for vacating the interim orders.

22. This Court considered the rival submissions and also perused the materials available on record.

23. W.P.(C) No.690 of 2021 has been filed by six petitioners to quash the (i) Standing Order No.189 dated 15.4.2021; (ii) Standing Order No.189 (1st Amendment) dated 23.8.2021; (iii) Standing Order No.189 (2nd Amendment) dated 1.9.2021 issued by the Director General of Police and to set aside the impugned DPC proceedings for consideration of out-of-turn promotion to the post of Jemadar from Havildar and to direct the respondents to give preference to the personnel who have been awarded the police medal for gallantry by His Excellency, the President of India over those personnel who have been given other gallantry awards and to exclude the Good Service Marks as per the Recruitment Rules.

24. When the said writ petition is taken up for admission on 11.10.2021, this Court passed the following interim order:

"Heard Mr.A.Mohendro, learned counsel appearing for the petitioners.

Issue notice, returnable within 4 (four) weeks.

Mr.H.Samarjit, learned Government Advocate accepts notice on behalf of all the respondents, hence no formal notice is called for.

List this case again on 16.11.2021.

In the meantime, it is directed that if any DPC is held for the promotion to the post of Jamaldar in Manipur Police Department (M.R), the result of such DPC in respect of the promotion under the 15 (fifteen) percent out of turn promotion should not be announced without the leave of the Court."

25. W.P.(C) No.625 of 2021 has been filed by two petitioners to quash the very same Standing Order No.189 dated 15.4.2021 as well as the DPC proceedings for consideration of promotion to the post of Jemadar from Havildar for recruitment 2012-2013 to 2019-2020 under 15% out-of-quota.

26. On 20.9.2021, when the said writ petition was taken up for admission, this Court passed the following interim order:

"[1] Heard the argument of Mr. M.Hemchandra, learned senior counsel for the petitioner and perused the record.

[2] Heard Mr. Shyam Sharma, learned GA who takes notice for the respondent Nos.1 & 2. Since Mr. Shyam Sharma, learned GA takes notice for the respondent Nos.1 & 2, no formal notice is required.

[3] Post the matter for filing counter affidavit by the respondents on 11.10.2021.

[4] In the interim if the DPC is conducted for promotion to the post of Jemadar (MR/IRBn.), the result of the DPC shall not be published without the leave of the Court.

[5] Mr. Shyam Sharma, learned GA represented that as per the High Court Rules, the matter should be listed before the Hon'ble Division Bench and Single Bench having no right to hear the matter.

[6] Anyhow without counter affidavit, this Court will not consider the maintainability of the writ petition before this Bench. Therefore, Mr. Shyam Sharma, learned GA for the respondent Nos.1 & 2 is directed to file preliminary objection on that dat.

[7] Registry is directed to issue the copy of this order to both the parties to their whatsapp/e-mail."

27. In W.P.(C) No.625 of 2021, the State had filed M.C.(WP(C)) No.318 of 2021 to vacate the interim order dated 20.9.2021. By the order dated 29.12.2021, this Court disposed of

M.C.(WP(C)) No.318 of 2021. The order dated 29.12.2021 reads thus:

"Heard Mr. Niranjan Sanasam, learned GA appearing for the applicants and Mr. M.Hemachandra, learned senior counsel for the respondents/writ petitioners.

The only submission advanced by the learned GA appearing for the applicants is that by an order dated 20.09.2021 passed in the connected WP(C) No.625 of 2021, the authorities have been restrained from publishing the result of the DPC held on 26.11.2021 for promotion to the post of Jamadar (MR/IRB) without leave of this Court. The applicants are seeking leave of this Court through this application for allowing them to declare the result of the said DPC in respect of the General Category only, i.e., 85% quota provided under relevant Recruitment Rules as the election code of conduct is knocking at the door. It has also been submitted by the learned GA that no prejudice will be caused to the applicants as their grievance is restricted in respect of promotion against the 15% out of turn promotion quota provided under the RR.

Mr.M.Hemachandra, learned senior counsel vehemently objected to the submission advanced by the GA on the ground that such prayer made by the GA is contrary to the pleading made by the applicants as well as the prayer made in the present application. However, the learned senior counsel fairly conceded that the dispute raised in the connected writ petition confines to the promotion against 15% quota for out of turn promotion.

After hearing the argument of the learned counsel appearing for the parties, this Court is of the considered view that interest of justice will be served by allowing the authorities to announce the result of the said DPC in respect of the General Category, i.e., for promotion against 85% quota as provided under the RR. It is hereby also made clear that the authorities should not announce the result of the said DPC in respect of promotion against 15% quota for out of turn promotion as provided under the RR without leave of this Court.

With the aforesaid direction, the application is disposed of."

28. Now the State as well as the private respondents in the respective writ petitions contend that the grievance of the writ petitioners should not affect the whole administration in the Police

Department in the State of Manipur. Though the result of DPC was declared in respect of the general quota and eligible Havildars who have been recommended under the 85% quota were given appointment and thereafter posting orders were issued, the private respondents whose case has also been considered by the same DPC have been subjected to a situation where they are not in a position to ascertain as to whether they have been recommended by the DPC for promotion to the post of Jemadar or otherwise and also for enjoying the benefit of such promotion like the other eligible candidates who have now given promotion on the basis of the recommendation made by the same DPC.

29. Elaborating further, the State contends that in order to streamline the existing system of out-of-turn promotion in respect of police personnel in the Manipur Police Department, revised guidelines approved by the Home Department was issued by the Director General of Police being Standing Order No.189 dated 15.4.2021. The Standing Order clearly mentions the provisions of applicability, eligibility and calculation of vacancy, methodology of awarding marks, period of achievements, personnel facing departmental enquiries, interpretation and relaxation. The Standing Order dated 15.4.2021 is applicable to all the posts where out-of-turn promotion category is clearly mentioned in the respective Recruitment Rules. The Standing

Order has been amended twice with the approval of the Home Department. The Standing Order allow all the eligible Havildars to be considered for promotion to the rank of Jemadars under out-of-turn quota without restricting the normal zone of consideration. In the absence of the Standing Order, the writ petitioners would not be eligible to be considered for promotion under out-of-turn quota, as they are not within the normal zone of consideration.

30. The State further contends that even though the writ petitioners are gallantry awardees and have not utilized the said gallantry awards for promotion under out-of-turn quota, these gallantry awards cannot be used for promotion to Jemadar under out-of-turn quota as the said awards are not the achievements while serving in the feeder post i.e. Havildar. The Standing Order and its amendments are within the ambit of the Recruitment Rules and have not altered the Recruitment Rules. Prior to the Standing Order, there was no specific guidelines to assess the grading of achievements of police personnel for promotion under the out-of-turn category, whereas the DPC could devise its own method and procedure for objective assessment of the suitability of the candidates and the Standing Order No.189 will aid in the assessment. The DPC can make its own independent assessment and the subsequent amendments were issued to remove the

confusion that has arisen amongst the eligible and deserving out-of-turn candidates and also to avoid multiplicity of litigation.

31. There is no dispute that under the Recruitment Rules, the Director General of Police has the power to recommend persons under 15% out-of-turn quota for the post of Jamadar. Out-of-turn means police personnel has done something remarkably good. Out-of-turn promotion is permissible to encourage the police personnel to perform better in service and the same cannot be granted in breach of the rules governing out-of-turn promotion.

32. Admittedly, the writ petitioners have not challenged the power of the Director General of Police. Prima facie, as the writ petitioners have not challenged the power of the Director General of Police under the Recruitment Rules, the writ petitioners cannot challenge the Standing Order issued to regular the recommendation by the Director General of Police. Therefore, as rightly argued by the learned counsel for the private respondents, unless the power of the Director General of Police is curtailed by a competent authority, the Director General of Police has the authority to recommend candidate in terms of the Standing Order. Though the aforesaid observation of this Court would touch upon the very root of the writ petitions, taking into consideration the

plea raised by the respective parties on the merits of the Standing Order and power of the Director General of Police, this Court has arrived at such finding.

33. As could be seen from the records, in terms of the same Standing Order, the DPC was held in promotion to the post of Sub-Inspector of Police from Assistant Sub-Inspector of Police and they have been given promotion without any interference from any corner.

34. At this juncture, the learned counsel for the private respondents submitted that in respect of MR/IRB, due to the interim orders of this Court, the candidates under the out-of-turn quota have been deprived of the right to promotion. This not only shows deprivation, but also the private respondents and similarly situated candidates have to salute their junior counterparts serving in the Police Department. This Court finds some force in the said submission made by the learned counsel for the private respondents.

35. As rightly argued by the learned counsel for the private respondents, the private respondents are not in a position to ascertain as to whether they have been recommended by the said DPC for promotion to the post of Jemadar or otherwise. A sense of discrimination and deprivation of the right for promotion

has been instilled upon the private respondents for no fault and they have been deprived of the right of promotion to the higher post, inasmuch as they have not even know whether they have been recommended or not. Except the writ petitioners herein, others have not questioned and/or challenged the Standing Order dated 15.4.2021 and its amendments and also the DPC proceedings for consideration of out-of-turn promotion to the post of Jemadar from Havildar. Therefore, as rightly argued by learned Government Advocate only because of the writ petitioners, the whole administration of policing in the State should not affect.

36. As the State and the private respondents have prima facie proved that withholding of the result of the DPC in respect of promotion against 15% quota for out-of-turn promotion is not only hampering the administration of the Police Department, but also the private respondents who have taken part in the said DPC for promotion to the next higher post of Jemadar have right to know about the result of the DPC.

37. The learned senior counsel for the writ petitioners submitted that since exchange of pleadings in the writ petitions are completed and awaits final hearing for disposal, it is prudent to hold the result of the DPC held on 26.11.2021 in respect of 15% out-of-turn quota promotion to the post of Jemadar in view

of the interim orders passed in the writ petitions till the final adjudication of the cases. According to the learned senior counsel, the result of the DPC held on 26.11.2021 for appointment by promotion from the post of Havildar to Jemadarin respect of 15% out-of-turn quota should not be declared till the final disposal of the case. The aforesaid argument cannot be countenanced.

38. In view of the findings arrived at by this Court in the preceding paragraph that withholding of the result of the DPC in respect of promotion against 15% out-of-turn quota is hampering the administration and also causing hardship to the private respondents, the arguments of the learned senior counsel to hold the result of the DPC in respect of 15% out-of-turn quota promotion to the post of Jemadar cannot be accepted.

39. It is pertinent to note that by submitting their required documents for consideration for promotion under out-of-turn promotion quota in spite of having knowledge about the condition provided in the Standing Order, the writ petitioners have waived their right to challenge the Standing Order as well as the DPC held on the basis of the impugned Standing Order. If really the writ petitioners have aggrieved by the Standing Order, they should not have submitted their documents for consideration under out-of-turn promotion category. *Prima facie*, by submitting

their documents for consideration under out-of-turn promotion quota, the writ petitioners have given up their right to challenge the Standing Order.

40. In the facts and circumstances stated supra, this Court is of the *prima facie* view that there is no need for restraining the State from declaring the result of the DPC in respect of 15% out-of-turn promotion category. Due to the interim orders, the candidates under the out-of-turn quota cannot be deprived of. The interest of justice warrants to vacate the interim order dated 11.10.2021 passed in W.P.(C) No.690 of 2021 and the interim order dated 20.9.2021 passed in W.P.(C) No.625 of 2021 and the order dated 29.12.2021 passed in MC(WP(C)) No.318 of 2021 in W.P.(C) No.625 of 2021.

41. As far as M.C.(WP(C)) No.376 of 2022 in W.P.(C) No.625 of 2021 is concerned, the learned counsel for the applicant submitted that the applicant Ningthoujam Kiranjit Singh was aspirant for consideration of promotion to the next higher post of Jemadar under 15% out-of-turn quota as provided under the relevant Recruitment Rules. Since the applicant Ningthoujam Kiranjit Singh has already participated in the DPC for promotion from the post of Havildar to Jemadar under 15% out-of-turn quota and the interim orders passed in the writ petition are gravely

affected him, the applicant is desirous to be impleaded as respondent No.4 in W.P.(C) No.625 of 2021.

The applicant Ningthoujam Kiranjit Singh also sought to implead on the ground of protecting his vested right to know the result of the DPC.

42. Considering the facts and circumstances of the case and the fact remains that the applicant Ningthoujam Kiranjit Singh was aspirant for consideration of promotion to the next higher post of Jemadar under 15% out-of-turn quota, this Court is of the view that it is just and fair to implead the applicant Ningthoujam Kiranjit Singh as fourth respondent in W.P.(C) No.625 of 2021. If the applicant Ningthoujam Kiranjit Singh is impleaded as party respondent in the writ petition, no prejudice would be caused to the writ petitioners. Therefore, for proper adjudication of the writ petition, the applicant Ningthoujam Kiranjit Singh is ordered to be impleaded as fourth respondent in the writ petition.

43. In the result:

- (i) MC(WP(C)) Nos.319 of 2021 and 57 of 2022 in W.P.(C) No.690 of 2021 and MC (WP(C)) No.208 of 2023 in W.P.(C) No.625 of 2021 are allowed.

- (ii) The interim order dated 11.10.2021 passed in W.P.(C) No.690 of 2021, which was extended from time to time and, the interim order dated 20.09.2021 passed in W.P.(C) No.625 of 2021 and the order dated 29.12.2021 passed in MC (WP(C)) No.318 of 2021 in W.P.(C) No.625 of 2021, shall stand vacated.
- (iii) The respondent authorities are directed to declare the result of the DPC held on 26.11.2021 in respect of 15% out-of-turn promotion quota to the post of Jemadar within a period of seven days from the date of receipt of a copy of this order.
- (iv) The declaration of result of the DPC in respect of 15% out-of-turn promotion quota to the post of Jemadar and the consequential appointment orders, if any, are subject to the result of the writ petitions.
- (v) MC (WP(C)) No.376 of 2022 in W.P.(C) No.625 of 2021 is allowed. The applicant Ningthoujam Kiranjit Singh is permitted to

be impleaded as respondent No.4 in
W.P.(C) No.625 of 2021.

- (vi) It is made clear that the views expressed
by this Court in this order are only *prima*
facie views and the same cannot be taken
as final opinion of this Court.

ACTING CHIEF JUSTICE

FR/NFR

Sushil