

Serial No.23
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 256 of 2023

Date of Order :19.12.2023

Shri. Ben Rewat M. Lyngdoh

Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Chief Justice (Acting)

Appearance:

For the Petitioner/Applicant(s) : Mr. Philemon Nongbri, Adv.
Mr. R.Pahsyntiew, Adv.
Mr. W.G.R.Mihsill, Adv.

For the Respondent(s) : Mr. N.D.Chullai, AAG with
Ms. Z.E.Nongkynrih, GA.

ORAL

1. Mr. Philemon Nongbri, learned counsel for the petitioner submits that this matter which concerns the prayer for considering the promotion of the petitioner to the post of Joint Director, Urban Affairs, as per the affidavit of the state respondents, the only hindrance is the computation and reckoning of seniority between the petitioner herein and the petitioner in WP(C). No. 257 of 2023.

2. Learned counsel has then drawn the attention of this Court to the joint representation made by the petitioners in both the writ petitions,

which is annexed at Annexure-14 which is dated 14th July, 2023. It is submitted that at paras 16 and 22 thereof, of the said representation, these petitioners have given an undertaking that they are willing to accept the respective seniority positions as may be determined by the department, if the department immediately considers their prayer for promotion at the earliest. He therefore, submits that the hindrance as reflected in para 10 of the affidavit will be overcome by the undertaking which has been given by the two petitioners in the consideration of their promotions.

3. Mr. N.D.Chullai, learned AAG assisted by Ms. Z.E.Nongkynrih, learned GA on behalf of the respondents submits that if this is the situation, and the petitioners will not individually agitate for their seniority which will be fixed by the department, their promotion will be considered as expeditiously as possible.

4. Having heard learned counsel for the parties and considering the materials present, firstly, the affidavit of the state respondent at paras 9 and 10 thereof, as also the statements in the representation dated 14th July, 2023 at Annexure-14, paras 16 and 22, the hindrance or difficulty in consideration of the inter-se seniority of the two petitioners should not stand in the way of the state respondents in considering the prayer as made in the writ petitions. Paras 9 and 10 of the affidavit of the state respondents reads as follows:

“9. That with regard to the averments made at paragraphs 10 to 16 of the writ petition, the answering deponent states that a gradation list was circulated vide Notification No. UAU.22/2012/52 dated 30.06.2021 (enclosed as Annexure-9 of the writ petition) and the petitioner had sought clarification with regard to the same vide his representation dated 29.07.2021 (enclosed as Annexure-10 of the writ petition). A meeting was convened on 01.11.2022 to discuss the matter relating to the inter-se seniority amongst the members of the Directorate, particularly between the petitioner and one Shri. R. Sohkhlet, District Urban Planner. After examining the relevant documents and analysing the same, it was found that the petitioner belongs to the Planning Branch while Shri .R. Sohkhlet belongs to the Engineering Branch under the Directorate of Urban Affairs. After much deliberation, the members of the meeting suggested that the gradation list be sorted out by removing the name of Shri. R.Sohkhlet from the gradation list of the Planning Branch and inserting his name in the gradation list of the Engineering Branch. Following the aforementioned meeting, a revised gradation list was circulated vide Notification No. UAU.22/2012/110 dated 19.04.2023 (enclosed as Annexure – 13 of the writ petition) wherein the suggestions were implemented. However, it is pertinent to state herein that another review meeting was held 04.07.2023 wherein the placement of the Shri. R. Sohkhlet in the gradations list was discussed.

10. That with regard to the averments made at paragraphs 17 and 18 of the writ petition, the answering deponent states that the issue relating to the inter-se seniority is yet to be settled which has caused delay in the matter of promotion. As stated hereinabove, another review meeting was held on 04.07.2023, wherein it was observed that the two vacant posts of Joint Director can be filled up by three cadres, i.e Planners, Architects and Engineers. However, as the issue of seniority has not been settled,

this has unfortunately led to delay in the consideration for promotion.”

Paras 16 and 22 of the representation dated 14th July, 2023 reads as follows:

“16. That Madam, in view of the situation, keeping in mind the objectives and goals of the Department and the impetus being given by the GOI, we the undersigned are making this joint representation, giving our undertaking that we both are willing to accept our respective seniority as may be determined by the Department and that if the Department immediately considers our promotion at the earliest possible. This has become a compulsion and indispensability since time is of utmost essence besides the shortage of manpower in the Department, as already highlighted above.

22. That Madam, in the above context and at this juncture, through this representation, we would like to place on record, that the two aforementioned Officers would abide by whatever decision the government takes with regards to the seniority. However any further delay on the matter and subsequent promotion to the post of the Joint Director, the Planning Cadre would be compelled to take recourse to other rational and democratic means which might not be palatable to, but for which sadly, we have no alternative. For us it will be the proverbial “last straw” to cling to, for our rights and justice.

That Madam, in light of the above, we request your good office to kindly expedite in granting us promotion to the next two vacant higher post of Joint Director, Urban Affairs and that we undertake to abide by the seniority as may be determined by the Department during.

This is for your kind consideration and appropriate orders.”

5. Accordingly, the writ petition is disposed of by directing the state respondents to consider the promotion of the writ petitioners based on the undertaking as given in the representation dated 14th July, 2023. The matter should be completely as expeditiously as possible.

Chief Justice (Acting)

Meghalaya
19.12.2023
"Samantha PS"

