

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 406 of 2021

Date of Decision: 03.04.2023

Shri Challang M. Marak Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. B. Bhattacharjee, AAG with
Ms. I. Lyngwa, GA

i) Whether approved for reporting in Law journals etc:		Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S. Deb, learned counsel for the petitioner.
2. The facts in brief are that the petitioner was selected for appointment into SF-10 of the Meghalaya Police, through a recruitment process that was held sometime in 2017. However, the writ petitioner before his appointment could be confirmed, or any formal orders issued,

was arrested in connection with Tura P.S. Case No. 53 (6) of 2018 U/s 364 (A), 201/34 R/w Section 302 IPC.

3. The petitioner as submitted, was then in custody for over 2 months till he was released on bail vide order dated 24.08.2018. Thereafter, the writ petitioner filed a representation before the respondent No. 2 (The Commanding Officer, SF-10), praying that he be allowed to join service, while also indicating therein that he has since been released on bail. The representation however was rejected, and eventually after the writ petitioner had approached this Court, he was heard and by the impugned order dated 03.11.2021, his request was rejected. Hence the writ petition.

4. Mr. S. Deb, learned counsel for the petitioner submits that the rejection is un-reasonable and arbitrary, inasmuch as, the petitioner has never concealed the fact that there was a case pending against him before the respondents, and that that he was on bail. He further submits that the requisites that are applicable to regular employees, will not apply to him, as he is yet to be confirmed into service. At this stage he submits the only prayer is that, the respondents be directed to allow the writ petitioner to join the post, to which he has been validly selected.

5. Mr. B. Bhattacharjee, learned AAG assisted by Ms. I. Lyngwa, learned GA for the respondents submits that firstly it is to be noted, that the representation that was filed by the writ petitioner dated

11.09.2018, was after bail had been obtained on 24.08.2018. It is further submitted that the fact is that a criminal case which is serious in nature is pending adjudication, and it is not the case where the petitioner has been acquitted and is seeking appointment.

6. The learned AAG has placed reliance on the following judgments of the Hon'ble Supreme Court in the case of *State of West Bengal & Ors. vs. SK Nazrul Islam* reported in (2011) 10 SCC 184 and in the case of *Commissioner of Police, New Delhi & Anr. vs. Mehar Singh* reported in (2013) 7 SCC 685, and submits that these decisions support the position of law, when criminal cases are pending against such persons, there is no question of that person being appointed or mandamus issued, as it is a necessity that character and antecedents of a candidate is first to be verified, and so long as a candidate is not acquitted in a criminal case, he cannot be held suitable for appointment.

7. The learned AAG has also referred to the impugned order where he submits that the reasons as set out rejection of the petitioner's prayer, inasmuch as, verification of character and antecedents is compulsory and that the petitioner was being considered for appointment to an elite force, it is imperative that candidates with dubious backgrounds do not gain appointment.

8. Having heard the learned counsel for the parties and examined the materials on record, it is noted firstly that on the

representation of the writ petitioner, as per the order of this Court dated 28.10.2021 passed in WP(C) No. 258 of 2021, in the earlier round of litigation, in compliance thereof, the petitioner was afforded a personal hearing. The representation was accordingly disposed of, wherein the following reasons had been recorded. For the sake of convenience, extract of the order dated 03.11.2021, wherein the reasons are mentioned are reproduced hereinbelow:-“

- ***“Chapter-II Rule 5.4 of the Meghalaya Special Force 10 Rules 2014 states the “The Selected candidates shall be required to join the service within 30 days from the date of issue of appointment of order, failing which their selection will stand forfeited”.***
- ***The Meghalaya Services (Conduct) Rules 2019 Rule 3 clause (1) states that all Government Employees should at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a Government Employee.***
- ***The Central Recruitment Board Rule-43 clause 43.1 states that “Verification of character and antecedents of candidates should be compulsory”.***
- ***The petitioner was arrested in connection with Tura P.S. Case No 53 (6) of 2018 U/S 364/302 IPC which was a heinous crime and the case is still pending investigation. Government Letter Memo No. HPL62/2014/Pt/59 dated 30th June 2015 also directs this department to “carry out a more stringent exercise in checking the antecedents of SF 10 recruits as this is designed to be an elite force where we have to ensure that any candidates with dubious background must not get in. The Government considers it of utmost importance to ensure that the force is one without blemish on any of its personnel”.***

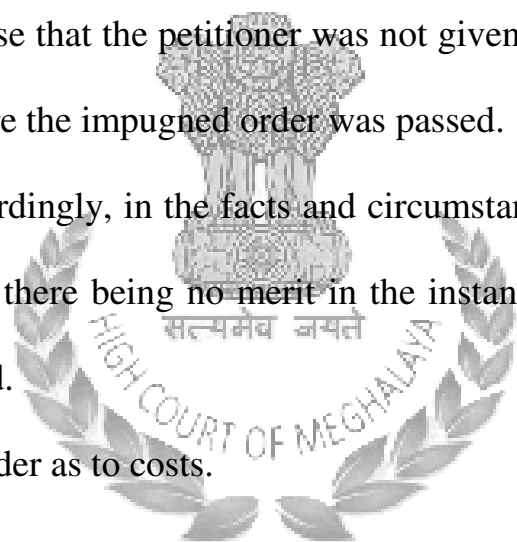
It is not disputed that the SF 10 is part of the Police force and considered to be an elite force. Being an elite force, it is therefore

expected that the recruits, will possess high moral standards and not be involved in any criminal case, at the time of seeking appointment.

9. In the instant case, it is not in doubt that the writ petitioner who is yet to enter service and whose appointment is yet to be confirmed, was arrested in connection with Tura P.S. Case No. 53 (6) of 2018 U/s 364 (A), 201/34 R/w Section 302 IPC. The judgments placed by the learned AAG on the same lines, will not allow consideration of the petitioner's prayer, as made out in the writ petition. It is also not a case that the petitioner was not given a fair opportunity to represent before the impugned order was passed.

10. Accordingly, in the facts and circumstances of the case as discussed above, there being no merit in the instant writ petition, the same is dismissed.

11. No order as to costs.



JUDGE

Meghalaya
03.04.2023
"V. Lyndem-PS"