

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 30 of 2023 with
MC (WA) No. 35 of 2023

Date of order: 26.09.2023

Krishpilla T. Sangma vs The State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Appellant : Mr A.S. Siddiqui, Sr Adv. with
Ms T. Yangkyi, Adv.
Ms L.D. Sangma, Adv.

For the Respondents : Mr K. Khan, AAG with
Ms R. Colney, GA

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This appeal is utterly unmeritorious and a complete waste of time. The grievance of the appellant pertains to a gradation list in which the names of certain colleagues of the appellant, all placed in the same post of lower division assistants, were indicated ahead of the appellant.

2. According to the appellant, a gradation list has to be prepared according to seniority and, since it is the admitted position that the appellant joined the service ahead of the respondent Nos. 5, 6 and 7, the

name of the appellant should have been higher on the gradation list as compared to the names of the said private respondents.

3. Ordinarily, when recruitment for many positions in the same post is conducted through a competitive process, the persons who gain appointment at the end of the process are graded according to their merit. In other words, persons who obtain higher marks in the relevant competitive examination are placed higher in the gradation list as against persons who obtain lower marks. In many cases, rather erroneously, the gradation list is mixed up with the reservation list. While the reservation list indicates how many of the recruits at a particular recruitment process would have to come from among the reserved categories, the gradation list prepared at the end of such recruitment process has no nexus with the roster and has to be prepared according to the inter se merit based on the marks of the candidates at the particular process.

4. In this case, there is a clear rule in terms of Rule 29(1)(b) that provides that inter se seniority of lower division assistants would be in the order in which their names appear in the results of the competitive examination conducted by the Public Service Commission.

5. There can be no dispute that both the appellant and the respondent Nos. 5 to 7 participated in the same competitive examination

and recruitment process which was initiated by a notice dated December 6, 2006. Indeed, in the memorandum issued by the State dated November 17, 2020 fixing the inter se seniority of lower division assistants in the Directorate of Commerce and Industries, six names were indicated. The first name belonged to a promotee. The next three names belonged to the respondent Nos. 5 to 7 herein, the fifth name was that of the appellant and the sixth name was that of another.

6. As far as the person first named in the seniority list, there could have been no dispute since such person was a promotee and not a direct recruit selected upon the competitive examination being conducted. Indeed, the writ petition was instituted by the appellant against such promotee and complaining of the name of the promotee appearing ahead of the appellant's in the gradation list. However, during the pendency of the writ petition, the relevant promotee attained superannuation and the writ petition was subsequently amended to continue the battle against the respondent Nos. 5 to 7 herein.

7. It is plain to see from the inter se seniority list of November 17, 2020 that while the appellant herein ranked 68th in the merit list, the three private respondents ranked 58th, 55th and 53rd in the same merit list. Since it is also evident that the merit list pertained to the same recruitment process, irrespective of when any individual actually joined

the service, the seniority and gradation list would have been on the basis of the marks obtained in the recruitment process and the positions in the merit list.

8. Indeed, the appellant herein has no case at all. On November 9, 2020, the appellant complained to the Director of Commerce and Industries that certain anomalies in the gradation and seniority list ought to be corrected. In the relevant letter, the appellant quoted Rule 29(1)(b) of the relevant Rules and, towards the end of the letter, in the final paragraph, had this to say:

“On perusal of the Rules quoted hereinabove it is clear that Serial No. 21, 22 and 23 is made senior to me as they fall under Rule 29(1)(b) which I am not pressing upon as their name appears to be above me in the merit list conducted by the MPSC, but in respect of Shri G.S. Lyngwa (Serial No. 20) who is the promotee...”

9. The persons whose names appeared at serial numbers 21, 22 and 23 are the respondent Nos 5 to 7 herein. It is evident that the appellant understood the exact meaning and purport of Rule 29(1)(b) and abandoned, in writing, his challenge to the placing of such persons ahead of him in the seniority and gradation list. In such circumstances, upon Lyngwa's retirement, there was no cause for the appellant to pursue the writ petition and no justification or basis to flog the dead horse by impleading the respondent Nos. 5 to 7. The appellant had clearly admitted much earlier that the respondent Nos. 5 to 7, on the

basis of Rule 29(1)(b) of the said Rules, were entitled to be placed ahead of the appellant in the seniority-cum-gradation list.

10. Since the writ court has referred to a relevant rule and justified the gradation list on such basis, there does not appear to be any error committed or any room for interference therein. The appellant, as is evident, merely attempted to take a chance both before the writ court and by filing this utterly specious appeal.

11. As a consequence, WA No. 30 of 2023 is dismissed with costs assessed at Rs. 25,000/- which should be paid by the appellant to the State within a fortnight from date. A message should go down loud and clear that exhibitionism and misadventure have no place before a court of law and cannot result in any discretion being exercised under Article 226 of the Constitution.

12. MC (WA) No. 35 of 2023 is disposed of.

(B. Bhattacharjee)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
26.09.2023
"Sylvana PS"