



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/238/2021

Tashi Gami
Peon (MTS),
S/o Lt. Apo Gami,
C/o Deputy Commissioner, Raga, PO/PS Raga, Kamle District, A.P
Ph no. 09774755598

VERSUS

1:THE STATE OF AP and 2 Ors represented by the Secretary District
Administration, Govt. of A.P, Civil Secretariat, Itanagar.

2:The Deputy Commissioner Raga Kamle District A.P

3:Kina Eashe alias Kina Eshi (LDC) S/o Shri Kina Tayo C/o Deputy Commissioner
Raga Kam

Advocate for the Petitioner : Khoda Tari, T. Don

Advocate for the Respondent : GA (AP), Duyu Laji

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 19-07-2023

Heard Mr. T. Don, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the State respondent nos. 1 & 2 and Mr. D. Laji, learned counsel for the respondent no. 3.

2. This writ petition is directed against the order, dated 26.03.2021, issued by the Deputy Commissioner, Kamle District, Raga, vide Memo No. E-50/2021/438-46-Raga, whereby, the respondent no. 3 has been appointed as Lower Division Clerk (LDC) on officiating capacity. The respondent no. 3 is stated to be a Dak Runner/Multi-Tasking Staff (MTS).

3. Challenging the aforesaid order, dated 26.03.2021, the petitioner contends that both the petitioner and the respondent no. 3 are Multi-Tasking Staff (MTS). The petitioner having been initially appointed as Peon, by an order, dated 8th July, 2003, issued by the Deputy Commissioner, Upper Subansiri District, Daporijo, vide Memo No. DRJ/Estt-02/02-03, in the District of Upper Subansiri District and later on transferred to Kamle District on 11.05.2020 on creation of Kamle District in the year 2018 and the respondent no. 3, having been initially appointed as Dak Runner by an order dated 23rd November, 2009, issued by the Deputy Commissioner, Lower Subansiri District, Ziro, vide Memo No. E-8100/99/1419, the petitioner is senior to the respondent no. 3 in MTS though the respondent no. 3 may have been in the District of Kamle since the year 2018, which is the year of creation of Kamle District.

4. The petitioner further contends that the respondent no. 3 though has been shown as appointed in the impugned appointment order dated 26.03.2021, the respondent no. 3 has in fact been promoted in the 25 % post of LDC (Lower Division Clerk) earmarked for promotion from MTS through Limited Departmental Competitive Examination, in terms of "*the General Arunachal Service, Group-C (Ministerial) (Common) Lower Division Clerk/Lower Division Clerk-cum-Computer Operator/Data Entry Operator*

Recruitment Rules' 2019 (in short, *the Recruitment Rules, 2019*). Accordingly, it is the further case of the petitioner that in an appointment made in the aforesaid 25 % post of LDC (Lower Division Clerk) earmarked for promotion from MTS through Limited Departmental Competitive Examination, the same is to be made after a Limited Departmental Competitive Examination is conducted, but in the instant case, the respondent no. 3 was appointed by the impugned order of appointment dated 26.03.2021, issued by the Deputy Commissioner, Kamle District, Raga, as LDC without conducting a Limited Departmental Competitive Examination as provided under *the Recruitment Rules' 2019*.

5. The respondent no. 2, the Deputy Commissioner, has filed a counter-affidavit, wherein, it has not been disputed that the respondent no. 3 was appointed as an LDC without conducting a Limited Departmental Competitive Examination as contemplated under *the Recruitment Rules' 2019*, nor the respondent no. 3 in the counter-affidavit filed has indicated that his appointment as LDC, vide the impugned order dated 26.03.2021, issued by the Deputy Commissioner, was made after holding a Limited Departmental Competitive Examination as contemplated under *the Recruitment Rules' 2019*.

6. In view of the above admitted position that the respondent no. 3 was appointed as LDC by the impugned order dated 26.03.2021, without holding a Limited Departmental Competitive Examination as contemplated under *the Recruitment Rules' 2019*, the appointment of the respondent no. 3 as LDC by the impugned order dated 26.03.2021, issued by the Deputy Commissioner, Kamle District, Raga, vide Memo No. E-50/2021/438-46-Raga is found to

have been made in violation of the "*the General Arunachal Service, Group-C (Ministerial) (Common) Lower Division Clerk/Lower Division Clerk-cum-Computer Operator/Data Entry Operator Recruitment Rules' 2019*" and therefore, illegal.

7. Under the circumstances, this writ petition has to succeed and accordingly, is hereby allowed and disposed of by setting aside the impugned order of appointment, dated 26.03.2021, issued by the Deputy Commissioner, Kamle District, Raga, vide Memo No. E-50/2021/438-46-Raga, with a further direction to the respondent authorities to take steps to fill up the said post in accordance with the "*the General Arunachal Service, Group-C (Ministerial) (Common) Lower Division Clerk/Lower Division Clerk-cum-Computer Operator/Data Entry Operator Recruitment Rules' 2019*", as expeditiously as, possible by providing an opportunity of participation to all such candidates, who may be eligible to participate under the Rules.

8. It is hereby ordered accordingly.

9. The writ petition is allowed to the extent indicated above and disposed of.

JUDGE

Comparing Assistant