

GAHC040016352023



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

Case No. : IA(C)/203/2023

Deepak Langkam and 7 Ors. (Inspector Civil Police), Resident of Roing, PO/PS
Roing, District, Lower Dibang Valley, Arunachal Pradesh

2: Mito Nyori

Age:

Occupation : (Inspector Civil Police) Resident of Likabali PO/PS Likabali District
West Siang Arunachal Pradesh

3: Kesang Norbu

Age:

Occupation : (Inspector Civil Police) Resident of Changlao Village PO/PS Tawang
District Tawang (A.P)

4: Lod Tari

Age:

Occupation : (Inspector Civil Police) Resident of Kalung Village PO/PS Ziro District
Lower Subansiri (A.P)

5: Kali Ngulom Lendo

Age:

Occupation : (Inspector Civil Police) Resident of Basar PO/PS Basar District Lepa
Rada (A.P)

6: Pasang Onge

Age:

Occupation : (Inspector Civil Police) Resident of Mechuka PO/PS Mechuka District
Shi Yomi (A.P)

7: Habung Tapa

Age:

Occupation : (Inspector Civil Police). Resident of Ziro PO/PS Ziro District Lower
Subansiri (A.P)

8: Hage Challa

Age:

Occupation : (Inspector Civil Police). Resident of Ziro PO/PS Ziro District Lower Subansiri (A.P)

VERSUS

The State of AP and 20 Others Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar

2: The Secretary/Commissioner

Age: 0

Occupation : Department of Home Govt. of A.P Itanagar

3: The Director General of Police

Age: 0

Occupation : Govt. of Arunachal Pradesh Itanagar

4: The Deputy Inspector General of Police (E)

Age: 0

Occupation : PHQ Itanagar

5: George Lungphi

Age: 0

Occupation : Assistant Commandant (IRBN) S/o Turong Lungphi Village Songking PO/PS Miao District Changlang (A.P)

6: Tade Lingri

Age: 0

Occupation : Assistant Commandant (IRBN) S/o Tadok Lingri Village Lingri PO/PS Taliha District Upper Subansiri (A.P)

7: Nongja Samon

Age: 0

Occupation : Assistant Commandant (IRBN) S/o B.C Samon Village Goju PO/PS Bordumsa District Changlang (A.P)

8: Marbi Yomcha

Age: 0

Occupation : Assistant Commandant (IRBN) S/o Limar Yomcha Village Tapio Yomcha PO/PS Yomcha District West Siang (A.P) Village Reru PO/PS Ziro Lower Subansiri District (A.P)

9: Shri Kuru Tatung,

Age: 0

Occupation : Deputy S.P. (Civil Police), S/o Late K. Deilyan, Village: Digboi, PO/PS: Dibrugarh, Assam.

10:Gautam Dutta

Age: 0

Occupation : Dy. SP (Civil Police) S/o Nani Gopal Dutta Village Dibboi PO/PS
Dibrugarh Assam

11:Swapan Ghosh

Age: 0

Occupation : Dy. SP (Civil Police). S/o Kanailal Ghosh Village Baneswar PO
Baneswar PS Kotawali District Cooch Bihar West Bengal

12:Pradeep Kalia

Age: 0

Occupation : Dy. SP (Civil Police) S/o Kamdia Kanth Kalita Village Harijanga PS
Barma District Kamrup Assam

13:Wangbam Ramwa

Age: 0

Occupation : Dy. SP (Civil Police) S/o Teram Ramwa Village Kaimai PO/PS Khonsa
Tirap District (A.P)

14:Ege Ette

Age: 0

Occupation : Dy.SP (Civil Police) S/o Late Meyi Ette Village Bone PO/PS Aalo
District West Siang (A.P)

15:Nyummyum Sora

Age: 0

Occupation : Dy.SP (Civil Police) S/o Dangyom Sora Village Nikte PO/PS Aalo
District West Siang (A.P)

16:Sengchung Norbu

Age: 0

Occupation : Dy. SP (Civil Police). S/o Drujee Norbu Village Akaling PO/PS
Kalaktang District West Kameng (A.P)

17:Talem Taggu

Age: 0

Occupation : Dy. SP (Civil Police) S/o Takyak Taggu Village Pasighat PO/PS
Pasighat District East Siang (A.P)

18:Oge Moyong

Age: 0

Occupation : Dy.SP (Civil Police) S/o Oscek Moyong Village Mirku PO/PS Pasighat
District East Siang (A.P)

19:Tabi Bage

Age: 0

Occupation : Dy. SP (Civil Police). S/o Tachi Bage Village Chotarupuk PO/PS

Daporijo District Upper Subansiri (A.P)

20:Nako Sambyo

Age: 0

Occupation : Dy. SP. (Civil Police) S/o Nako Sera Village Kalung PO/PS Ziro District
Lower Subansiri (A.P)

21:Lobsang Dawa

Age: 0

Occupation : Dy. SP (Civil Police) S/o Leikee Tsering Village Thembang PO/PS
Dirang District West Kameng (A.P)

Advocate for the Petitioner : Likha Tabin, T. Tagum, R. Koyu, L. Tubin, H. Tai

Advocate for the Respondent : GA (AP), D. Panging

BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-12-2023

Heard Mr. P.K. Tiwari, learned Senior Counsel assisted by Mr. T. Tagum, learned counsel for the applicants; Mr. S. Tapin, learned Senior Government Advocate, Arunachal Pradesh for the respondents Nos.1 - 4; Mr. M. Doji, learned counsel for the respondent Nos. 5 - 8; and Mr. D. Mazumder, learned Senior Counsel assisted by Mr. L. Perme, learned counsel for the respondent Nos. 22 – 40.

2. This interlocutory application is preferred by 8 applicants for staying W.T. Message dated 14.11.2023, and/or any further action pursuant thereto initiating process for promotion from the feeder cadres of Inspector [Civil Police]/Arunachal Pradesh Arms Battalion and Indian Reserve Battalion to Arunachal Pradesh Police Service [Entry Grade].

3. Mr. Tiwari, learned Senior Counsel appearing for the applicants submits that

the applicants have instituted a writ petition, being W.P.[C] No. 405[AP]/2021, against the various illegal actions of the State respondents which are contrary to the order of this Court dated 13.05.2015, passed in W.P.[C] No. 42/2012 and also against the recommendations of Board dated 10.12.2015, which was constituted pursuant to the aforementioned order of this Court for cadre management of the cadres of Inspectors of Arunachal Pradesh Police [Civil Police], Arunachal Pradesh Armed Police Battalion [AAPBn] and Indian Reserve Battalion [IRBn] and during the pendency of the said writ petition, the State respondents, vide W.T. Message, dated 14.11.2023, again initiated the process of promotion from the rank of Inspector [Civil Police]/AAPBn/IRBn to Arunachal Pradesh Police Service [Entry Grade], without complying with the recommendations of the Board dated 10.12.2015, which were made pursuant to the order of this Court dated 13.05.2015, passed in W.P.[C] No. 42/2012. Mr. Tiwari further submits that during the pendency of the writ petition, being W.P. [C] No. 405[AP]/2021, the State respondents have circulated final seniority list of Inspectors [Civil Police]/AAPBn/IRBn and in conformity with the recommendation of the Board the final seniority lists of Inspectors of each wings of the police force was not an amalgamated seniority list and it has to separately show the seniority list of Inspectors of each wings of the police forces.

3.1. Mr. Tiwari further submits that thereafter, vide W.T. Message dated 14.11.2023, the State respondents have initiated the process of promotion from the rank of Inspectors [Civil Police]/AAPBn/IRBn to APPS [Entry Grade] and in the said message, the 54 Inspectors of all the three wings of the police force are called for, on or before 08.12.2023, and that the said message was silent on the number of vacancies in the feeder posts of APPS [Entry Grade] of each

wings of the police force for which the Inspectors named in the W.T. Message are to be considered for promotion. Mr. Tiwari also submits that in the said W.T. Message the names of the 54 inspectors are shown in terms of their length of service in their respective cadres of Inspector of the three wings of the police force, which is clearly in violation of the recommendation of the Board and that the applicants have apprehension that in deviation of the recommendation of the Board, the State respondents are going to promote the Inspectors from the three wings of the police force to the feeder posts of APPS [Entry Grade] and that the same is contrary to the various orders of this Court and also in breach of the recommendations of the Board and the order of the State dated 05.11.2018. Mr. Tiwari also submits that the W.T. Message dated 14.11.2023, is illegal and therefore, it is contended to stay to the said W.T. Message, otherwise the applicants will be prejudiced.

4. Whereas, Mr. Mazumder, the learned Senior Counsel appearing for the respondent Nos. 22 – 40 has vehemently opposed the petition on the following grounds:-

[i] that, this IA is not maintainable, as all the respondents are not before this Court and

[ii] that the process for promotion is initiated on the basis of Recruitment Rule and said Recruitment Rule has not been challenged; and

[iii] that, by way of this IA the applicants have raised a separate cause of action, which not permissible in view of decision of this court in Ashish Chakravarty & Ors. vs. Union of India & Ors, reported in 2006(4) GLT 746;

[iv] that, this application is bad for non-joinder of necessary parties. Mr. Mazumdar has referred one decision of Hon'ble Supreme Court in Public

Service Commission, Uttaranchal vs. Mamta Bisht & Ors., reported in (2010) 12 SCC 204, in support of the same.

Therefore, Mr. Mazumder has contended to dismiss this interlocutory application.

5. On the other hand, Mr. S. Tapin, learned Senior Government Advocate, Arunachal Pradesh for the respondent Nos. 1 – 4 referring to various documents enclosed with the W.P.[C] No. 405[AP]/2021, submits that the process has been initiated as per Recruitment Rule, which is not under challenge. Mr. Tapin further submits that vide letter dated 10.12.2015, the respondent authority had sent the recommendation of the Board to the Government, pursuant to order of this court and since then the matter is pending before the Government and as such, this W.P.[C] No. 405[AP]/2021, may be disposed of by referring the matter to the Government for taking appropriate decision of the letter dated 13.05.2015 and except this no other relief can be granted here in this petition.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the application as well as the documents placed on record and also perused the W.T. Message dated 14.11.2023, and the order dated 13.05.2015, passed in W.P.[C] No. 42/2012, and the recommendation of the board dated 10.12.2015.

7. It appears that the W.P.[C] No. 405[AP]/2021 has been filed seeking following relief amongst others: -

[i] issuing a direction to the State respondents to implement the PHQ Board recommendation dated 09.10.2015, for cadre management of Inspector Police [Civil Police]/AAPBN/IRBN in letter and spirit; and

[ii] to maintain respective channels of promotion to the posts of

Dy.S.P./SDPO/Assistant Commandant in the APPS [Entry Grade] within the respective sanctioned strength of various cadres of different wings of the police force without transgressing into the sanctioned strength of any cadres of the three wings.

8. Further, it appears that deviating from the recommendation of the Board, the State respondents had issued W.T. Message, dated 14.11.2023, initiating the process of promotion from the rank of Inspectors [Civil Police/AAPBn/IRBn to APPS [Entry Grade] and that the said message is silent on the number of vacancies in the feeder posts of APPS [Entry Grade] of each wings of the police force for which the Inspectors named in the W.T. Message are to be considered for promotion and as such, the same appears to be in contravention of the recommendation of the Board, that was constituted by the respondents as per direction of this court.

9. Thus, this Court is prime facie of the opinion that the initiation of the process for promotion vide W.T. Message dated 14.11.2023, is contrary to the orders passed by this Court and also contrary to the recommendation of the Board, which was constituted as per order of this court.

10. This court has taken note of the submission Mr. Mazumdar, the learned senior counsel and also gone through decisions referred by him. It is a fact that all the respondents are not before the court today. But, the relief being sought for in this application is only interim and not final adjudication of the right of the parties and issues.

11. In the result, having considered the facts and circumstances on the record, as well as submission of learned counsels of both sides and having prima-facie satisfied, this Court is inclined to stay the impugned W.T. Message, dated 14.11.2023, till next date, on which endeavor will be made to finally hear the

writ petition, being W.P.[C] No. 405[AP]/2021 and dispose of the same.

JUDGE

Comparing Assistant