

GAHC030002322021



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

Case No. : WP(C)/71/2021

F.Lalhlimpuii
Zemabawk RIPANs Quarter, Aizawl

VERSUS

Union of India R/b the Secretary and 4 Ors.
Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-110011
2:Secretary
Ministry of Department of Personnel and Training
North Block
New Delhi-110001

3:Secretary
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi-110011

4:Director
regional Institute of Paramedical and Nursing Sciences (RIPANS)
Zemabawk
Aizawl

5:Albert Lalrinnggheta
S/o Lalseia (L)
R/o Vankhama Section
Zemabawk
Aizawl
Lunglei Roa

Advocate for the Petitioner : Mr Zochhuana

Advocate for the Respondent : Ms Zairemsangpuii (CGC) for R1-R3

ORDER

Date : 12.06.2023
(M. Zothankhuma, J)

BEFORE

HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE MARLI VANKUNG

Heard Mr. R. Lalnunpuia, learned counsel for the petitioner and Ms. Zairemsangpuii, learned CGC for the respondent Nos. 1 to 3. Also heard Mr. B. Lalramenga, learned counsel for the respondent No. 4 and Mr. J.H. Ramneihmawia, learned counsel for the respondent No. 5.

2. The petitioner is an Assistant working under the Regional Institute of Paramedical and Nursing Sciences (RIPANS). The grievance of the petitioner is with the promotion of the respondent No. 5 to the post of Section Officer in RIPANS, which had been made on the basis of the Recruitment Rules for Group-B & C Non-faculty posts RIPANS, Aizawl, Mizoram, 2020, herein after referred to as the '2020 Rules'. The 2020 rules came into effect on 25.02.2020 and the said Rules provided that recruitment to the post of Section Officer could be done by way of promotion, deputation or absorption. It further stated that for promotion to the post of Section Officer, the feeder post would be Assistant or equivalent in Level-6 in the Pay Matrix having 5 (five) years regular service.

3. As the respondent No. 5, who was the Store-keeper and who was in the equivalent post of Assistant in Level-6 in the Pay Matrix, was promoted to the post of Section Officer in terms of the 2020 Rules. The grievance of the petitioner is that the Rules for promotion to the post of Section Officer should only be from the feeder post of Assistant and not from any other post, which would be in line with the Central Secretariat Service Rules, 2009, herein after

referred to as the '2009 Rules'.

4. The learned counsel for the petitioner submits that in the 2009 Rules, the post of Section Officer can only be filled up from the feeder post of Assistant and not from any other post. As such, the 2020 Rules should be set aside, in so far as it provides for promotion to the post of Section Officer from the equivalent post of Assistant in Level-6 in the Pay Matrix.

5. The learned counsels for the respondents, on the other hand submit that the 2020 Rules had been made after getting the approval of the Central Government, vide Letter No. F.No.U.12025/56/2014-NE (Vol.II) dated 02.01.2020, issued by the Under Secretary to the Government of India, Ministry of Health & Family Welfare (NE Section).

6. The learned counsels for the respondents also submit that RIPANS is an Autonomous Body, i.e., it is a Society which is registered under the Societies Act, 1860. As such, the Society can have its own Bye-Laws governing the Service Rules of its employees. They further submit that the Memorandum of Association enacted by RIPANS does not bar the said Autonomous Body from making its own Service Rules, which is different from the 2009 Rules.

7. On considering the submissions made by the learned counsels for the parties, we are unable to understand how the impugned Rules is violative of Article-14 of the Constitution, inasmuch as, RIPANS is an Autonomous Body, i.e., it is a Society and as such, can make its own Service Rules regarding its employees, different from the 2009 Rules. Further, the petitioner's post is also in the feeder post of Section Officer. We do not find arbitrariness in the 2020 Rules

being slightly different from the 2009 Rules, just because the equivalent post of Store-keeper is also a feeder post of Section Officer.

8. In view of the reasons stated above, this Court does not find any merit in this writ petition.

9. The writ petition is accordingly dismissed.

JUDGE

JUDGE

Comparing Assistant