

GAHC030003952021



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

Case No. : WP(C)/108/2021

FC Chhunpari and 103 Ors.
Ramhlun Venglai, Aizawl, Mizoram 2: H.Lalduhawmi
Ramthar Veng
Aizawl
Mizoram

3: C.Lalmuanpuii
ITI Veng
Aizawl
Mizoram

4: R.Vanlalbiaki
Tlangnuam
Aizawl
Mizoram

5: P.C.Malsawmkimi
Tlangnuam
Aizawl
Mizora

VERSUS

State of Mizoram and 192 Ors.
R/b Chief Secretary to the Govt. of Mizoram, Aizawl 2:Secretary to the Govt. of
Mizoram
Health and Family Welfare Dept.
govt. of Mizoram
Aizawl

3:Secretary to the Govt. of Mizoram
Dept. of Personnel and Administrative Reforms
Aizawl

4:Secretary to the Govt. of Mizoram
Finance Dept.
Aizawl

5:Principal Director
Health and Family Welfare Dept.
Govt. of Mizoram. Aizawl

6:Director of Health Services
Health and Family Welfare Dept.
Aizawl

Advocate for the Petitioner : Ms Dinari T Azyu

Advocate for the Respondent : Mr C Zoramchhana (Addl.AG/GA, Mizoram)

Linked Case : I.A.(Civil)/97/2022

F.C. Chhunpari and 103 Ors.
R/o Ramhlun Sub-Centre
Aizawl.

VERSUS

State of Mizoram and 192 Ors.
Aizawl
Mizoram.

Advocate for the Petitioner : Ms Dinari T Azyu
Advocate for the Respondent : Mr F Lalenglina for R7-R193

Linked Case : I.A.(Civil)/75/2022

FC Chhunpari and 108 Ors.
Mizoram

VERSUS

State of Mizoram and 4 Ors.
Mizoram

Advocate for the Petitioner : Mr F Lalengliana
Advocate for the Respondent : Mrs. H Lalmalsawmi
(Addl.AG/GA Mizoram) for R1-R5

:::BEFORE:::

HON'BLE MR. JUSTICE NANI TAGIA

ORDER

09.06.2023

Heard Mr. Victor L. Ralte, learned counsel appearing on behalf of the petitioners. Also heard Mrs. H. Lalmalsawmi, learned Government Advocate, appearing on behalf of respondents No. 1 to 6; and Mr. F. Lalengliana, learned counsel, appearing on behalf of private respondents No. 7 to 192.

The writ petitioners, altogether 104 in nos., who are the female health workers, Government of Mizoram, have filed this writ petition, seeking a direction to the respondent authorities to maintain a common inter-se seniority list of male and female health workers, contending that the Mizoram Health & Family Welfare Department(Group 'C' posts) Recruitment Rules,

2011, under which the Health Workers are recruited; does not classify the Health Worker into male and female health worker.

Contending that the State authorities are not maintaining a common inter-se seniority list of male and female health workers in the Department; the petitioners have annexed a copy of the final inter-se seniority list of Health Worker (Female), dated 17.04.2020, issued by the Director of Health Services, Mizoram, Aizawl, vide Memo. No. A.23018/2/2017-DHS/MPW.

According to the petitioners, even after a series of complaints was lodged against maintaining a separate seniority list of male and female health worker; the respondent No. 6 viz. the Director of Health Services, Health & Family Welfare Department, Aizawl, has issued a Circular, dated 10.08.2021, vide Memo. No. A.23018/2/2017-DHS/MPW; whereby a provisional seniority list of Health Workers, male and female, have again been published separately, inviting objection from anyone who dispute the seniority position assigned to the Health Workers.

The petitioners contend that the Recruitment Rule does not provide for maintaining a separate seniority list of male and female health workers. Therefore, since the Recruitment Rule does not make a classification of Health Workers into male and female workers; the action of the respondent authorities in maintaining a separate seniority list of Health Workers of male and female, is illegal and the respondent authorities are liable to be directed to maintain a common inter-se seniority list of male and female health workers in accordance with the Recruitment Rule.

The State respondents as well as the private respondents, have filed their respective counter affidavits, wherein, it has been contended that the seniority list of Health Workers has been maintained separately in respect of the male and female health workers in terms of the post creation orders.

Though the State respondents as well as the private respondents, in their counter affidavits, have contended that separate seniority position of the Health Workers of male and female, have been maintained in terms of the post creation by the Government of Mizoram; the State respondents as well as the private respondents have not denied the applicability of the Mizoram Health & Family Welfare Department(Group 'C' posts) Recruitment Rules, 2011, for recruitment to the post of Health Workers as well as the Mizoram Health & Family Welfare Department(Group 'B' posts) Recruitment Rules, 2011, for recruitment to the post of Health Supervisor.

On perusal of the Mizoram Health & Family Welfare Department(Group 'C' posts) Recruitment Rules, 2011, published by Notification No. A.12018/17/2009-P&AR (GSW), dated 13.04.2011; it is noticed that there are 770 sanctioned posts of Health Worker which are to be filled up 100% by direct recruitment:- (i) from candidates having minimum qualification of HSLC or its equivalent and who have successfully completed one and half years course of Health Worker Training from an institution recognized by Government of Mizoram; and (ii). having working knowledge of Mizo language of at least Middle School standard.

A further perusal of the Mizoram Health & Family Welfare

Department(Group 'B' posts) Recruitment Rules, 2011, published by Notification No. A.12018/17/2009-P&AR (GSW)/B, dated 24.06.2011; it is noticed that there are 171 sanctioned posts of Health Supervisor, [a promotional post of Health Worker]; 75% of which posts are required to be filled-up on promotion from Health Worker with 5 years regular service in the grade and 25% of posts by Limited Departmental Examination from Health Worker with 5 years regular service in the grade.

Thus, on perusal of the Mizoram Health & Family Welfare Department(Group 'C' posts) Recruitment Rules, 2011, as well as Mizoram Health & Family Welfare Department (Group 'B' posts) Recruitment Rules, 2011; it appears that both the Rules does not make any classification of Health Workers into male and female health workers.

If the Recruitment Rules, referred to hereinabove; does not make any classification of Health Workers into male and female health workers; there cannot be a separate seniority list of male and female health workers on the basis of post creation by the Government. The post creation of Health Worker by the Government is also required to be done in accordance with the Recruitment Rules, noted-above.

In view of the above; this Court is of the considered opinion that there cannot be a separate seniority list of male and female health workers on the basis of post creation by the Government in the absence of any classification of Health Workers into male and female health workers in the Recruitment Rule.

Accordingly, this writ petition succeeds and the respondent authorities are hereby directed to maintain a common inter-se seniority list of male and female health workers for the purpose of promotion from the post of Health Worker to the next higher post i.e. Health Supervisor.

The writ petition is hereby allowed and accordingly stands disposed of, in terms above.

JUDGE

Comparing Assistant