

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

**WP(C) No. 308 of 2024 with
MC(WP(C) No. 106 of 2024 with
MC(WP(C) No. 278 of 2024 with
MC(WP(C) No. 435 of 2024 with
MC(WP(C) No. 47 of 2024 with
MC(WP(C) No. 90 of 2024 with
WP(C) No. 79 of 2024**

Lairikyengbam Tomocha Roy & 2 Ors.

...Petitioner

- Versus-

The State of Manipur represented by the
Chief Secretary & 25 Ors.

...Respondents

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA
ORDER

29.11.2024.

[1] Heard Mr. RK. Mehta, learned counsel assisted by Mr. E. Premjit, learned counsel and Mr. Niraj Bobby Paonam, learned counsel for the petitioners, Mr. M. Devananda, learned Addl. A.G. assisted by Mr. Tomclist, learned counsel for the State respondent, Mr. S. Suresh, learned counsel for the Principal Accountant General and Mr. K. Roshan, learned counsel for the private respondents.

[2] The petitioners are Executive Engineers in IFCD Department (now Water Resources Department) and they were

promoted to the post of Executive Engineer with effect from 03.02.2018 and their appointment has been upheld by the common judgment dated 30.10.2023 passed by the Division Bench of this Court in the batch of writ petitions being WP(C) No. 917 of 2017 and etc.

[3] In para 29, the Division Bench upheld the failing clause inserted in the Recruitment Rules for promotion to the post of Executive Engineer in the Water Resources Department.

[4] In para 30 of the Division Bench order, it was observed that out of 25 vacant posts of Executive Engineer, the direct recruit Assistant Engineer could be considered for promotion to the post of Executive Engineer. The judgment dated 30.10.2023 passed by the Division Bench is challenged before the Hon'ble Supreme Court by way of SLP No. 25889-25894 of 2023 and the same is pending. Vide order dated 11.12.2023, the Hon'ble Supreme Court clarified that any promotion made to be subject to the outcome of the special writ petitions. Thereafter, on the basis of the DPC held on 22.12.2023, out of 23 direct recruits, 21 Assistant Engineers were promoted to the post of Executive Engineers vide order dated 27.12.2023 giving notional effect from 03.02.2018.

[5] The petitioners preferred two writ petitions being WP(C) No. 79 of 2024 challenging the promotion of 21 private

respondents dated 27.12.2023 to the post of Executive Engineer, also the posting order dated 16.01.2024 and in writ petition being WP(C) No. 308 of 2024, the petitioners herein challenged the proceeding of the DPC dated 22.12.2023 recommending the promotion of 21 private respondents to the post of Executive Engineer notionally with effect from 03.02.2018.

[6] Mr. RK. Mehta, learned counsel for the petitioners, submits that the DPC proceeding dated 22.12.2023 and the promotion of 21 private respondents dated 27.12.2023 and posting order dated 16.01.2024 are in violation of the direction of the Division Bench in the order dated 30.10.2023.

[7] On the other hand, Mr. M. Devananda, learned Addl. A.G. for the State respondent, has raised the question of maintainability of the writ petitions to the effect that the petitioners who had already been promoted to the post of Executive Engineers in the year 2018, cannot challenge the promotion of the private respondents made on 27.12.2023.

[8] Mr. K. Roshan, learned counsel for the private respondent, adopts the submissions of the learned Addl. A.G.

[9] Mr. S. Suresh, learned counsel for the Principal Accountant General, refers to the counter affidavit stating that the matter pertaining to appointment and promotion is prerogative of the Administrative Department.

[10] Mr. RK. Mehta, learned counsel for the petitioner, has pointed out that it is an admitted fact that the petitioners were promoted in the year 2018 with effect from 03.02.2018 and the private respondents who were promoted in the year 2023 are also given notionally from the same date i.e. 03.02.2018. Since the private respondents were senior to the petitioners in the cadre of Assistant Engineer, by the impugned DPC proceeding dated 22.12.2023 and impugned promotion order dated 27.12.2023, the private respondents would be senior to the petitioners and others who have already been promoted in the year 2018 and the petitioners are aggrieved by putting the private respondents above them in the cadre of Executive Engineer.

[11] At this stage, Mr. M. Devananda, learned Addl. A.G., submits that the seniority list in the cadre of Executive Engineer is yet to be prepared and the apprehension of the petitioners are pre-matured, as the final seniority list is yet to be finalised.

[12] Mr. K. Roshan, learned counsel, also submits that the apprehension of the petitioners is pre-matured.

[13] This Court has considered the materials on record and the submissions made at the bar.

[14] On mere perusal of the proceeding of the DPC dated 22.12.2023 and the promotion order dated 27.12.2023 of the private respondents to the post of Executive Engineer, it is natural

for the petitioners to have apprehension that the private respondents would be put above them in the seniority list. However, as clarified by the learned Addl. A.G. to the effect that the tentative as well as final seniority list of the cadre of the Executive Engineer in the Water Resources Department is yet to be prepared, there is no injury to the petitioners at the moment.

[15] In the circumstances, this Court is of the opinion that the apprehension of the petitioners of putting the private respondents above them in the seniority list in the cadre of Executive Engineer of Water Resources Department is premature. If the petitioners are aggrieved by the final seniority list of the cadre of Executive Engineer in the Water Resources Department, they are at liberty to approach this Court by appropriate proceeding.

[16] Mr. RK. Mehta, learned counsel for the petitioners, submits that since there is no stay by the Hon'ble Supreme Court in the pending SLP, the State respondent may be directed to prepare the seniority list of Executive Engineer within a stipulated period of time.

[17] Mr. M. Devananda, learned Addl. A.G., submits that since the matter is pending before the Hon'ble Supreme Court, it may not be appropriate to the State respondent to prepare final seniority list at its own and the petitioners may be directed to

submit a representation in this regard and they will consider as per rule.

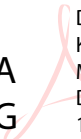
[18] Mr. RK. Mehta, learned counsel for the petitioners, submits that the petitioners will submit a detailed representation to the State respondent within two weeks and the State respondent may consider the case of the petitioners as per rule.

[19] With this observations and directions, writ petitions are disposed of. Misc. applications are also disposed of in terms of the above observations and directions.

JUDGE

Kh. Joshua Maring

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