

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

WP(C) No. 132 of 2023

Sanjoy Ahanthem

.....*Petitioner/s*

- Versus -

State of Manipur & 2 Ors.

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order (Oral)

22.07.2024

[1] Heard Mr. HS. Paonam, learned senior counsel assisted by Ms. Malemleima, learned counsel for the petitioner, Mr. Th. Sukumar, learned G.A. for the State respondent and Mr. I. Denning, learned counsel for the DMU.

[2] The petitioner, who is an Assistant Professor in History Department posted at NG College, applied for consideration of his name for absorption in the newly established DMU in terms of the notification dated 07.07.2022 issued by the Directorate of University and Higher Education, Government of Manipur.

[3] Vide order dated 13.09.2022, the Principal, NG College referred the names of 4 (four) Assistant Professors including the name of the petitioner herein for absorption in DMU. However, out of 4 (four) persons, only the name of the petitioner was left out from the list published by the State authority for absorption.

[4] Mr. HS. Paonam, learned senior counsel for the petitioner, submits that in the notification dated 07.07.2022, there was no mention of sanctioned posts for the 30 departments. However, in the order dated 24.11.2022 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, 19 (nineteen) names were included as transferred to DMU from the Directorate of University and Higher Education, Manipur.

[5] Further, vide another order dated 12.01.2018 issued by the Commissioner (Hr. & Tech. Edn.), Government of Manipur, another list of absorbed teachers were issued and in History subject, 17 (seventeen) names were shown in place of 19 (nineteen) issued earlier. In para 4 of the order dated 12.01.2023, it is especially mentioned that 4 (four) more persons also applied for deleting their names from consideration for absorption in DMU.

[6] In the counter affidavit filed by the State respondent, in para 10 it is stated that there is no vacant post for absorption and the case of the petitioner will be considered as and when vacancy arises.

[7] Mr. Th. Sukumar, learned G.A., also refers to the additional affidavit dated 27.06.2024, inter-alia, stating that there are only 13 (thirteen) sanctioned posts in History subject in DMU and hence, the name of the petitioner cannot be considered at this stage.

[8] Mr. I. Denning, learned counsel for the DMU, submits that they have to act upon the recommendation made by the State respondent and at this stage, he has nothing to submit.

[9] Mr. HS. Paonam, learned senior counsel for the petitioner, submits that assuming that there are only 13 (thirteen) posts available in the History subject in DMU as stated in the additional affidavit, 16 (sixteen) persons are deemed to be absorbed in DMU in History subject in terms of the order dated 26.04.2023. It is also submitted that this latest order dated 26.04.2023 is in violation of the interim order dated 13.02.2023 passed by this Court whereby no finalization for absorption as well as classification of faculty for UG and PG courses in respect of History Department in DMU.

[10] During the course of hearing, Mr. HS. Paonam, learned senior counsel, submits that one Lunneikhup Vaiphei, who is at serial No. 1 in the list of absorbed Assistant Professor (History) issued vide order dated 24.11.2022 has not joined till date and hence, one seat is still available in the History subject. Further, learned senior counsel for the petitioner relies upon the judgment passed by the Hon'ble Supreme Court in the case of (i) **State of UP vs Mahesh Narian reported as (2013) 4 SCC 169**, (ii) **Jose vs. Alice & Anr. reported as (1996) 6 SCC 342**, (iii) **Union of India vs. Mohan Singh Rathore & Anr. reported as (1996) 10 SCC 469**, (iv) **All Bengal Excise Licensees' Association vs. Raghabendra Singh & Ors. reported as (2007) 11 SCC 374** and (iv) **Monohar Lal (Dead) by Lrs vs. Ugrasen (Dead) by Lrs & Ors. reported as (2010) 11 SCC 557**. It is submitted that the subsequent order dated 26.04.2023 issuing in violation of the interim order dated 13.02.2023 is per se illegal and has no legal sanctity.

[11] This Court has considered the materials on record.

[12] In order to avoid all complicacies, this Court is of the opinion that the writ petition can be disposed of by giving direction to the State respondent to consider the name of the petitioner for absorption as Assistant Professor (History) in DMU as there is no impediment for considering more names than the sanctioned posts.

[13] On perusal of the record, this Court finds that the State Government has not indicated number of sanctioned posts of other subjects considered for absorption in the earlier as well as subsequent notification. State respondents are directed to consider the name of the petitioner for absorption in the available seat.

[14] The consideration of the petitioner shall be completed within a period of 2 (two) months from the date of receipt of a copy of this order.

[15] With this observation, writ petition is disposed of.

[16] Any pending applications are disposed of and interim order is vacated.

[17] Furnish a copy of this order to the learned counsel appearing for all the parties.

JUDGE

Kh. Joshua Maring

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