

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

WA No. 15 of 2024

Smt. Heigrujam Pinky Devi, aged about 38 years, D/o H. Dilip Kumar, W/o Birajit Singh Oinam of Singjamei Oinam Thingel, P.O. & P.S. Singjamei of Imphal West District, Manipur – 795008, now working as Fishery Inspector in the Fishery Department.

...Appellant

- Versus -

1. The State of Manipur represented by the Secretary, Fishery, Government of Manipur, Old Secretariat Complex, Imphal – 795001.
2. Director of Fisheries, Government of Manipur, Lamphelpat.
3. Secretary, Manipur Public Service Commission, Imphal, North A.O.C.

...Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

For the appellant	: Mr. A. Romenkumar, Sr. Advocate
For the respondents	: Mr. M. Devananda, Addl. AG
Date of Judgment	: 17-04-2024

J U D G M E N T

Siddharth Mridul (C.J.),

[1] The present appeal has been instituted by Smt. Heigrujam Pinky Devi assailing the impugned judgment and order dated 21-03-2024 passed in WP(C) No. 624 of 2023, whereby the learned Single Judge of this Court whilst dismissing the said writ petition concluded that the appellant was ineligible for the vacancy that arose between 2019-2020 for the post of Fishery Officer.

[2] The facts as are relevant for the determination of the present appeal are elaborated as follows:—

- (i) The appellant was appointed on regular basis to the post of Fishery Inspector in the Directorate of Fisheries, Government of Manipur in order of merit w.e.f. 01-12-2016 vide order dated 01-12-2016.
- (ii) The appellant completed One Year Post Graduate Diploma in Inland Fisheries and Aquaculture Management (PGDIFI & AM) from May 2019 to April 2020.

At this stage, it would be relevant to observe that the duration of the course was admittedly extended due to the Covid-19 pandemic.

[3] The appellant's case is that she is eligible for consideration for promotion to the post of Fishery Officer as stipulated by the Fishery Department, Manipur (Fishery Officer) Recruitment Rules, 1996 (RR).

[4] The appellant asserts that as per the RR she has already completed three years regular service and successfully obtained the requisite diploma, i.e. Post Graduate Diploma in Inland Fisheries and Aquaculture Management.

[5] On 04-09-2019, the Director, Fisheries notified the combined final inter se seniority list of Fishery Inspectors/Fishery Instructors/Fishery Extension Assistants as on 31-08-2019. The name of the appellant figured at Serial No. 14 of the said seniority list.

[6] It is observed, however, that, in the combined final seniority list of Fishery Inspectors/Fishery Instructors/Fishery Extension Assistants in the Directorate of Fisheries, Government of Manipur as on 31-08-2019, the

appellant was considered ineligible at the time of original DPC for not possessing requisite Diploma or Certificate as prescribed in criteria 1 & 2 of the existing RR.

[7] The DPC conducted on 16-11-2020, therefore, did not consider her case for promotion to the post of Fishery Officer.

[8] Pursuant to the common judgment and order dated 03-02-2023 delivered by the Coordinate Bench of this Court in WA No. 111 of 2022, WA No. 112 of 2022 and WA No. 115 of 2022, the appellant submitted a representation to the respondents on 10-02-2023 for including her name for consideration in the review DPC in terms of the directions contained therein.

[9] The appellant's name was, however, not included in the eligible list of candidates for the review DPC conducted on 18-09-2023.

[10] The appellant instituted the subject writ petition seeking a writ of mandamus directing the official respondents to include her name in the list of candidates for the said review DPC, as well as to quash and set aside the proposal dated 18-08-2023 for holding review DPC; as being contrary and violative of the RR of Fishery Officer as well as the said judgment and order of the Coordinate Bench dated 03-02-2023 (*supra*).

[11] On behalf of the appellant, it was vehemently urged before the learned Single Judge that the appellant had completed three years of regular service in the feeder cadre of Fishery Inspector and had successfully completed the Diploma course conducted during the period May 2019 to April 2020, and as such, possessed all the requisite qualifications for promotion to the post of Fishery Officer in terms of the subject RR.

[12] *Per contra*, Mr. M. Devananda, learned Addl. Advocate General, had asserted that on the bare perusal of the marksheet dated 20-09-2021 and the certificate dated 28-08-2023 issued by the ICAR-Central Institute of Fisheries Education, Kolkata Centre, it was evident that the appellant has successfully completed the requisite One Year Post Graduate Diploma only on 20-09-2021 and as such was not eligible to be considered by the review DPC for the vacancy for the post of Fishery Officer which arose in the year 2019-20.

[13] The learned Single Judge vide impugned judgment and order dated 21-03-2024 held as follows:—

“[21] Admittedly, the petitioner completed the Diploma in Fishery for the course May 2019 to April 2020 on 20.9.2021, as the course was extended due to pandemic. Later on, the Institute clarified that she completed the course of May 2019 to April 2020. In any case, the petitioner completed the Diploma in April 2020. However, as per OM dated 15.5.2014 and for the vacancies arising during the period from 2019 to 2020, the petitioner should possess the eligibility criteria between the period from 1st April 2019 to 31st March 2020. Since the petitioner completed the Diploma in April 2020 as per Annexure A-8, she is not eligible for the vacancy arose in the year 2019-2020. This Court is of the considered view that the petitioner was rightly not sent for considering in the Review DPC. However, it is clarified that the petitioner will be eligible for subsequent vacancies in the post Fishery Officer.”

[14] Mr. A. Romenkumar, learned senior counsel appearing on behalf of the appellant, invites our attention to the subject RR to urge that the requirement for the post of Fishery Officer in the Fishery Department,

Manipur is the possessing of Diploma with three years regular service in the grade of Fishery Inspector. Learned senior counsel would then urge that the OM dated 15-05-2014 and in particular, clause 4.3 thereof, leaves no manner of doubt that the crucial date for determining the eligibility of Officers for promotion would be as per the applicable RRs of the Service/Post proposed and if the said subject RRs is silent; the crucial date for this purpose would be 1st October. In other words, the case of the appellant is that having successfully obtained One Year Post Graduate Diploma for the period May 2019 to April 2020 in “Inland Fisheries and Aquaculture Management”, she was eligible to be considered by the review DPC for the next higher post of Fishery Officer.

[15] On the contrary, Mr. M. Devananda, learned Addl. Advocate General for the State of Manipur would reiterate the arguments canvassed before the learned Single Judge to the effect that since the appellant has completed the course only on 20-09-2021 as borne out from her marksheet as well as the certificate dated 28-08-2023 issued by the ICAR-Central Institute of Fisheries Education, Kolkata Centre, she is not eligible for the vacancy for the post of Fishery Officer that arose in the year 2019-2020.

[16] Although our attention has been invited to the findings arrived at by the learned Single Judge to buttress the argument that the solitary ground on which the appellant was non-suited was that she was required to possess the eligibility criteria between the period 1st April 2019 to 31st March 2020 and since she completed the Diploma only in April 2020, she was not eligible for the vacancy that arose in the year 2019-2020; and consequently, the State without having assailed the impugned order cannot be heard to urge

the ground elucidated hereinabove; we are of the view that the case of the appellant must stand on its own legs.

[17] Owing to the circumstance that the One Year Post Graduate Diploma Course for the period May 2019 to April 2020 in “Inland Fisheries and Aquaculture Management” from ICAR-Central Institute of Fisheries Education, Kolkata Centre was unfortunately delayed on account of the prevalent COVID-19 pandemic, the qualification obtained by the appellant axiomatically was effective only from 20-09-2021, the day on which the marksheet was admittedly issued and could not relate back to March 2020 or even October 2020 as urged on behalf of the appellant by placing reliance on clause 4.3 of the OM.

[18] In view of the foregoing, we find ourselves in agreement with the conclusion arrived at by the learned Single Judge, that the appellant was not eligible for the vacancy that arose for the post of Fishery Officer in the year 2019-2020; however, we come to the same conclusion in view of the reason expressed hereinabove by addition in the impugned judgement and order dated 21-03-2024, the appeal is accordingly dismissed.

JUDGE

CHIEF JUSTICE

FR/NFR

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