

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

W.P. (C) No. 554 of 2021

Md. Abdul Sattar

....*Petitioner*

- Versus -

State of Manipur

...*Respondent*

BEFORE

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

19.12.2024

Heard Mr.Anjan Prasad Sahu, learned counsel for the petitioner and Mr.Shyam Sharma, learned GA for the State.

The petitioner, who is a Section Officer, Grade-I in the RD & PR, Government of Manipur, made a representation for promotion to the next higher post. However, the representation of the petitioner was rejected vide impugned order dated 17.08.2020, on the ground that there is no promotional post in the RD & PR and post in the RED Cell in the RD & PR is a different section. The petitioner, who is working under RD & PR cannot be adjusted for promotion in the RED Wing. Being aggrieved by the same, petitioner approached this Court, inter alia, praying for setting aside the impugned order dated 17.8.2020, with a prayer for directing the respondents to consider his absorption or promotion to Assistant Engineer or equivalent post in the RED or by creating any suitable post. The prayer is reproduced hereunder:

- i.
- ii. issue writ of Certiorari and/or any other appropriate writ/ order/ direction by quashing/setting aside the impugned order dated 17.08.2020 (Annexure-A/15) as the same is not sustainable in the eye of law.
- iii. issue writ of Mandamus and/or any other appropriate writ/order/direction to the respondents/authorities concerned by directing them to absorb/promote the petitioners to the post of Assistant Engineer/equivalent and thereafter to Executive Engineer/ equivalent of the Department of Rural Development and Panchayati Raj, Govt of Manipur or the newly established Rural Road Engineering Department, Govt of Manipur against the available vacancies and/or by creating suitable posts to accommodate them.

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Mr.Anjan Prasad Sahu, learned counsel for the petitioner relies on the Hon'ble Supreme Court judgment reported in **1990 (Supp.1) SCC 688: O.Z.Hussain Vs Union of India** wherein direction was issued for framing appropriate rules for making promotional avenue. Learned counsel also relies on the judgment in the case of **Raj Pal Vs State of Himachal Pradesh & Ors** reported in **2010 SCC online HP 1095** where similar direction was issued to frame scheme providing promotional avenue. It is also pointed out that vide order 14.6.2022 issued by the Commissioner, RD & PR, Government of Manipur Section Officer Grade-I from RD & PR was utilized as A.E., in-charge in the RED. It is stated that appropriate order may be passed in terms of the decision of the Court and subsequent order dated 14.6.2022.

Mr.Shyam Sharma, learned GA submits that the prayer of the petitioner cannot be considered as there is no promotional avenue in the RD & PR and RED in the RD & PR are separate wing in the same department and staff cannot be interchanged except for utilization on deputation.

Learned GA also relies on the judgment of the Hon'ble Supreme Court reported in **(2004) 9 SCC 65: State of Tripura & Ors Vs K.K.Roy**, as the petitioner should not have any grievance regarding non availability of promotional avenue as he was aware of the situation prior to joining service and the petitioner also availed ACP Scheme I and II for the same purpose.

This Court is of the opinion that the writ petition may be disposed of by directing the State respondents to consider the case of creating promotional avenue for the petitioner, if feasible and also consider his case for utilization in the RED Wing of the RD & PR as has been done in the case of other similarly situated person.

With this observation, the writ petition is disposed of.

The whole exercise may be completed within a period of six months from the date of receipt of a copy of this order.

JUDGE

Priyjit