

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

**WP(C) No. 459 of 2023 with
WP(C) No. 550 of 2023**

Haobam Santikumar Singh & 16 Ors.

.....Petitioner/s

- Versus -

State of Manipur & Anr.

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order (Oral)

03.09.2024

[1] Heard Mr. Th. Khagemba, learned counsel for the petitioner and Mr. S. Niranjana, learned G.A. for the State respondent.

[2] The petitioners in WP(C) Nos. 459 of 2023 & 550 of 2023 applied for the post of 564 Followers (Manipur Police) in pursuance of the press release dated 11.05.2016 issued by the Manipur Police as well as notification in this regard. The result of the recruitment of Follower (Male), 2016 in police was declared on 17.05.2018 and the petitioners in both the writ petitions are placed in the waiting list of 55 candidates for the post of Follower.

[3] Thereafter, the petitioners in WP(C) No. 459 of 2023 submitted a joint representation dated 11.03.2018 for consideration of their appointment against 158 subsequent resultant vacancies of

Follower (Male) and the petitioners in WP(C) No. 550 of 2023 also submitted a similar representation dated 12.06.2023. Some of the petitioners in WP(C) No. 459 of 2023 approached this Court by way of writ petition being WP(C) No. 323 of 2019 and vide order dated 09.07.2019, the respondents were directed to consider the representation dated 11.03.2018 submitted by the petitioners keeping in mind that when the representation was made, the wait list was valid.

[4] Vide impugned order dated 31.05.2022, the representation dated 11.03.2018 was rejected mainly on the ground that 158 resultant vacancies cannot be considered against wait list of 2016 recruitment and there was no vacancy due to resignation, discharge or death of person selected in 2016 recruitment. However, the representation submitted by the petitioners in WP(C) No. 550 of 2023 is not disposed of till date. By the present 2 (two) writ petitions, the petitioners are praying for consideration of their names for appointment in vacant posts of Follower (Male).

[5] Mr. Th. Khagemba, learned counsel for the petitioners, draws the attention of this Court to letter dated 21.06.2020 issued by the Joint Secretary (Home), Government of Manipur to the Director General of Police, Manipur intimating the approval of the State Government for appointment of 44 candidates from the wait list panel of Riflemen (MR) of the same recruitment of 2016. Vide another letter dated 21.06.2020, the Joint Secretary (Home), Government of Manipur also intimated the DGP, Manipur the approval of the State Government

for appointment of 200 wait listed candidates as Police Constable (Male/Civil) out of 2013 recruitment. Learned counsel for the petitioners submits that even for 2013 recruitment, approval is given for appointment from the wait list candidates even in the year 2020. The ground for rejection as mentioned in the impugned order dated 31.05.2022 is contradictory to the stand of the State Government taken for appointment for the wait list candidates from 2013 and 2016 recruitment as back in the year 2020. The petitioners are praying for parity as done in the letter dated 21.06.2020. Learned counsel for the petitioners draws the attention of this Court to the contents of para 12 of the counter affidavit filed by the State respondent No. 1 wherein they have admitted the Annexures – A/8 & A/9 whereby the State Government has intimated to the DGP, Manipur for approval for appointment from the wait list candidates from 2013 & 2016 recruitment in the year 2020 and these are not disputed in the counter affidavit.

[6] On the other hand, Mr. S. Niranjana, learned G.A. for the State respondent, draws the attention of this Court to the Office Memorandum dated 20.12.1995 issued by the Government of Manipur laying down clarification regarding validity of wait list in case of direct recruitment. In para 2 of the O.M., it is stated that a candidate in the waiting list is entitled for appointment to a post if the selected candidate does not join or resign or discharge or death of the selected candidate within the validity period of waiting list. A candidate in the wait list has

not right to claim appointment in future vacancy unless the selection was held for them. The relevant para is reproduced as:

“A candidate in the waiting list in the order of merit may, therefore, be appointed if one or the other selected candidate does not join or in the event of the resignation, discharge or death etc. of a candidate within the period of validity of the waiting list. But once the selected candidates join and no vacancy arise due to resignation, discharge or death etc of a selected candidate after his appointed within the period the list is to operate under the rules, then the candidate from the waiting list has no right to claim appointment to any future vacancy which may arise unless selection was held for it. He has thus no right of appointed except to the limited extent indicated above.”

[7] Learned G.A. for the State respondent clarifies that none of the selected candidates has resigned nor does any vacancy arise due to resignation, discharge or death and hence, the petitioners have no right for appointment and cannot claim for appointment to any future vacancy including 158 subsequent vacancies. It is pointed out that the approval given by the State Government for appointment for the wait list candidates from 2013 & 2016 recruitment (Annexures – A/8 & A/9) are done with the State Cabinet decisions and in the present case, in absence of any proposal submitted to the cabinet, the claim of the petitioner cannot be accepted. Learned G.A. prays that writ petition may be disposed of.

[8] This Court has perused the materials on record and considered the submission made at bar.

[9] It is settled proposition of law that a person cannot claim equality when the purpose is illegal. From the office memorandum dated 20.12.1995, it is seen that a candidate in the wait list has right to be considered against any vacant post when some of the selected candidates do not join or there is vacancy upon resignation, discharge or death of selected candidate and the wait list candidate cannot be considered in subsequent vacancy.

[10] In the case in hand, the rejection of the representation of the petitioners in WP(C) No. 459 of 2023 is solely on the ground that 158 vacancies are subsequent vacancies and there are no vacancies due to non-joining, death or discharge or resignation of the selected candidates. In terms of the O.M. dated 20.12.1995, as a general rule, the claim of the petitioners cannot be sustained. However, in spite of the existence of the O.M. dated 20.12.1995, the State Cabinet has approved appointment of 44 Riflemen (MR) from the common recruitment of 2016 and 200 Police Constable (Male/Civil) of the wait list from 2013 recruitment. In spite of bar by the OM dated 20.12.1995, the State Government has taken a conscious decision of appointing persons from the waiting list even after 7 (seven) years of declaration of the result. The normal validity period of the waiting list is 12 (twelve) months, unless the same is extended by a specific order.

[11] In the circumstances, this Court is of the opinion that it will be in the interest of justice if the State Government considers the case of the petitioners in light of the approval given in the letters dated

21.06.2020 (Annexures – A/8 & A/9) whereby 44 candidates from the waiting list were appointed as Riflemen (MR) out of the same DPC of 2016 and 200 candidates from wait list were appointed as Police Constable (Male/Civil) from 2013 recruitment.

[12] Writ petitions are disposed of with a direction that the case of the petitioners may be considered in light of the approval given by the State Government in terms of Annexures – A/8 & A/9 notwithstanding the existence of OM dated 20.12.1995. However, it is made clear that the direction for consideration will be confined to the persons in the waiting list who are petitioners before this Court in WP(C) Nos. 459 of 2023 & 550 of 2023. The same shall be completed within a period of 3 (three) months from the date of receipt of a copy of this order. It may be noted that this direction shall not be a precedent in future case.

[13] With this observation, writ petitions are disposed of.

[14] Furnish a copy of this order to the learned counsel appearing for the parties for information and taking up necessary action.

JUDGE

Kh. Joshua Maring

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