

NON-REPORTABLE

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

WP(C)No.500 of 2023

Shri Thiyam Sarat Singh aged about 52 years old S/o Th. Babu Singh, a resident of Tera Lukram Leirak, PO & PS Imphal, Imphal West District, Manipur-795001.

...Petitioner

– Versus –

1. The State of Manipur represented by the Commissioner/Secretary, Skill, Labour, Employment & Entrepreneurship(SLEE), Government of Manipur, PO & PS Imphal, Imphal West District, Manipur-795001.
2. The Joint Director, Directorate of Craftsmen and Training Manipur having its Office at DC Office Complex, Imphal West, PO & PS Lamphel, Imphal West District, Manipur-795004.

....Official Respondents

3. Shri Oinam Amarnath Singh, Naharup Mayai Leikai, PO & PS Porompat, Imphal East District, Manipur-795005.

....Private Respondents

With
MC(WP(C))No.220 of 2023

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioner : Mr. Abdul Bagee Khan.
For the Respondents : Mr. Th. Sukumar, GA; Mr. Sh. Athoi.
Date of reserved. : 19.07.2024.
Date of Judgement & order : 05.11.2024.

J U D G E M E N T & O R D E R
(CAV)

[1] Heard Mr. Abdul Bagee, learned counsel for the petitioner, Mr. Th. Sukumar, learned GA for the State respondents and Mr. Sh. Athoi, learned counsel for the private respondent.

[2] By the instant writ petition, the petitioner is praying for issuance of a writ in the nature of certiorari or mandamus for quashing and setting aside the in-charge arrangement order of the private respondent dated 12.07.2023 thereby giving in-charge arrangement to the post of Principal in-charge, Govt. ITI Ningthoukhong, Manipur.

[3] Brief facts of the case are that the petitioner was initially appointed on 19.11.2003 as Crafts Instructor (IT & ESM) on contract basis on a consolidated pay of Rs.5000/-p.m. for three months, thereafter, the contract was re-engaged for 1(one) year and the same was extended from time to time till the regularization on 16.12.2016 to the post of Crafts Instructor (IT&ESM) in the combine list of grade III & IV and posted at Govt. ITI Ningthoukhong. The petitioner is a degree holder of Bachelor of Engineering (BE) in Electronic and Tele-Communication and his date of birth is 03.03.1971.

[4] Vide order dated 06.01.2022 issued by the Joint Director of Craftsmen Training, Manipur, the Principal of Govt. ITI Ningthoukhong namely, Shri RK Sailendra Singh was transferred and posted at the Women ITI Takyel, Imphal. Accordingly, the charge of Principal of Govt. ITI, Ningthoukhong was handed over to the petitioner forthwith. Thereafter, the petitioner has been working as Principal-in-charge, Government ITI, Ningthoukhong.

[5] It is stated that the petitioner is a Degree Holder and listed at Serial No.17 of the said inter-se Seniority of Crafts Instructors(Engineering) and private respondent is also a degree holder and his name is listed at serial No.61 as per final seniority list published on 15.12.2021 vide memorandum No.2.25.2017-DCT. It is further stated that the petitioner as well as the private

respondent were all regularized vide order dated 16.12.2016 on the recommendation of DPC convened from 12th December 2016 to 13th December, 2016 and thereafter in pursuance of Secretariat; Skill, Labour, Employment & Entrepreneurship(SLEE) Department's approval vide No. ITI-201/6/2021-LAB and EM-LAB & EMPL dated 14th December, 2021, a final seniority list in respect of Crafts Instructors(Engineering and Non-Engineering) of the Directorate of Craftsmen Training(ITI), Manipur had also issued vide memorandum dated 15.12.2021 issued by the Joint Director of Craftsmen Training, Manipur and the name of the petitioner is appeared at Sl.17(Crafts Instructor, IT & ESM) and his date of Birth also recorded as 03.03.1971 and the name of the private respondent is appeared at Sl. No.61(Crafts Instructor, Wireman) and his Date of Birth also recorded as 12.03.1985.

[6] While the petitioner was holding the post of Principal on in-charge basis at ITI, Ningthoukhong, Government of Manipur, the Deputy Secretary(SLEE), Govt. of Manipur issued an in-charge arrangement order dated 12.07.2023 thereby appointing the private respondent as in-charge Principal, Govt. ITI, Ningthoukhong. Being aggrieved by the said in-charge arrangement order dated 12.07.2023, the petitioner has filed the present writ petition.

[7] In the counter affidavit filed by respondent Nos. 1 & 2, it is stated that due to the exigency of work and smooth functioning of ITI of all the districts of Manipur, there is need to appoint or given charge of Principal in each ITI. In this regard, the State Government has given the charge of Principal ITI Ningthoukhong, Manipur on in-charge basis to Shri Oinam Amarnath Singh (private respondent), Crafts Instructor, Wireman. Further, as per the RR for the post of Principal(ITI), Shri Oinam Amarnath Singh, Crafts Instructor, Wireman is eligible for giving I/c Principal because the Crafts Instructor is the feeder post for promotion to the post of Principal. It is further stated that as per RR for the post of Principal(ITI), the said post is to be filled up by promotion from Superintendent(Tech)/Supervisor(Tech) possessing Degree in Electrical/Mechanical Electronics Civil Computers Automobile Engineering from a recognized University/Institute with 5(five) years regular service in the grade and in case of Diploma Engineering holder 8(eight) years regular service in the grade failing which Crafts Instructor Vocational Instructor(Engineering) possessing Degree in Electrical Mechanical Electronic Civil Computer Automobile Engineering from a recognized University/Institute with 10(ten) years regular service in the grade and in case of Diploma Engineering holder with 12(twelve) years regular service. So the State Government has given the

charge of Principal ITI Ningthoukhong, Manipur on in-charge basis to Shri Amarnath Singh, Crafts Instructor, Wireman because as per the RR for the post of Principal(ITI), he belongs to the feeder post i.e. Crafts Instructor.

[8] The private respondent has also filed counter affidavit contending that the said seniority list of Craft Instructor (ITI & ESM) of the Department of Skill, Labour, Employment & Entrepreneurship, Government of Manipur/Directorate of Craftsmen and Training, Government of Manipur was prepared erroneously. There is also no order issued by the authorities concerned thereby appointing/assigning the petitioner as the in-charge Principal, Government ITI, Ningthoukhong, Manipur at any point of time and so the question of violation of the condition of the office memorandum No.23/20/2019-Misc.(PHED)/DP dated 03.10.2020 does not arise. It is stated that transfer and posting of Principals are made from the Government level. Such order of transfers was made by the Under Secretary and Deputy Secretary of the Department and such orders of transfers were made on 08.05.2018, 20.06.2018 and 06.01.2022 on the basis of which he has been discharging his duties as Principal, Govt. ITI, Ningthoukhong was an order issued in furtherance of the letter dated 05.01.2022 written by the Additional Secretary (Skills, Lab.Exp.& Entrepreneurship) Government of Manipur. It is

further stated in the counter affidavit that the final seniority list which was published vide the memorandum dated 15.12.2021 was not prepared and published by following the settled principles for determination of seniority and the same was prepared and published by misinterpretation of the judgement and order dated 05.07.2012 passed by the Hon'ble Guwahati High Court in WP(C)No.63 of 2021. It is also stated that the petitioner is not the senior most Crafts Instructor, IT & ESM as his name appeared at Sl. No.17 of the final seniority list. Apart from this, the petitioner has not been given the charge of the Principal, ITI, Ningthoukhong on the basis of valid order as such he has no right for continuing to serve as Principal of the said institute as there is no order of appointment or giving the charge of said post by an order issued under due process. Therefore, the petitioner has no right for assailing the order dated 12.07.2023 issued by the competent authority by giving the charge of Principal, ITI, Ningthoukhong.

[9] In the common judgment dated 05.11.2024 in WP(C) Nos. 454 of 2023, 455 of 2023, 456 of 2023, 457 of 2023, 642 of 2023 titled Md. Zamir Khan v. State of Manipur & Ors, etc., etc., this Court holds that the in charge appointment of Principal, Govt. ITI should be made as per RR read with OMs

dated 03.10.2020 and 09.03.2021 by preferring seniormost officer in the feeder cadre, when none is eligible for appointment on regular basis.

[10] In the present case, the private respondent at Sl. No.61(Crafts Instructor, Wireman) is junior to the petitioner (at Sl. No. 17) and his appointment vide impugned order 21.07.2023 is in violation of the RR and OMs dated 03.10.2020 and 09.03.2021 and the same is set aside with a direction to make appointment in terms of RR and OMs. No cost.

[11] In terms of the above, MC(WP(C)) No. 220 of 2023 is also disposed of.

JUDGE

FR/NFR

John Kom