

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

WP(C) No. 630 of 2021

Elangbam Babina Devi

.....Petitioner/s

- Versus -

State of Manipur

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

25.06.2024

[1] Heard Mr. Ajoy Pebam, learned counsel for the petitioner and Mr. Shyam Sharma, learned G.A. for the State respondent.

[2] The petitioner, who is a Women Assistant Sub-Inspector of Manipur Police, approached this Court with a relief for converting her post of Women ASI to the post of Women SI for Manipur Police. The prayer is reproduced herein below:

“(i) *call for the records of the case and issue rule nisi calling upon the respondents to show cause as to why the prayer prayed for by the petitioner shall not be granted and after hearing them make the rule absolute.*

(ii) *issue a writ of certiorari to quash/set aside the decision of the Cabinet to appoint the petitioner to the post of ASI (Female/Civil) in the Manipur Police Department, Govt. of Manipur and its subsequent*

follow up actions including her appointment order dated 16.09.2019 (Annexure-A/7) and also the letter dated 08.03.2021 (Annexure-A/14) as they are not sustainable in the eyes of law.

- (iii) issue a writ of mandamus by directing the respondents to appoint the petitioner to the post of S.I. (Female/Civil) in the Manipur Police Department within a stipulated period by allowing her to continue in her present post till she is appointed to the post of S.I. (Female/Civil).*
- (iv) pass any other appropriate writ/order/direction that this Hon'ble Court deems fit and proper."*

[3] The petitioner, who is a national player in Football, applied for the post of Women Sub-Inspector in Manipur Police in pursuance to the advertisement dated 27.11.2008. Since she was not selected and some other persons with dubious certificates were appointed, she filed a writ petition being WP(C) No. 427 of 2012 for setting aside the appointment of 5 (five) Women S.I. as their sports certificates were not proper.

[4] Vide order dated 08.11.2016, this Court directed the State respondent to conduct an enquiry regarding the credentials of the sports certificates produced by the 5 (five) appointees. The petitioner approached the Division Bench of the Gauhati High Court by way of writ appeal being WA No. 51 of 2018 and vide order dated 18.09.2018, the direction passed by the Ld. Single Judge in the order dated 08.11.2016 in WP(C) No. 427 of 2022 will be applicable in the case of the petitioner

also. In pursuance to the direction of this Court, an enquiry was initiated and the service of the 5 (five) appointees were terminated.

[5] As per the representation submitted by the petitioner to the State Government, the matter was placed before the Cabinet and in agenda No. 21 of the Cabinet meeting held on 15.01.2019, it was proposed that the petitioner being appointed as direct recruit SI (Female/Civil) under meritorious sports quota on humanitarian ground and the Cabinet approved for appointment as ASI.

[6] Vide order dated 30.05.2019 issued by the Director General of Police, Manipur, the petitioner was appointed as Women ASI (Female/Civil) in Manipur Police Department on sports quota in pursuance of the Cabinet Decision dated 15.01.2019. Thereafter, the petitioner submitted a representation to the Hon'ble Chief Minister, Manipur for upgrading her appointment from the post of ASI to SI and the representation dated 26.02.2021 was also submitted.

[7] Vide letter dated 08.03.2021, the Deputy Secretary (Home), Government of Manipur intimated to the Director General of Police, Manipur that request for upgradation of the petitioner to the post of SI from ASI was rejected. The petitioner approached this Court challenging the impugned letter dated 08.03.2021 issued by the Deputy Secretary (Home), Government of Manipur to the DGP, Manipur rejecting her request for upgradation from ASI to the post of SI, inter-alia, on the ground that she had initially applied for the post of Women

SI and due to the appointment of 5 (five) persons on dubious sports quota certificate, her case could not be considered.

[8] On the other hand, Mr. Shyam Sharma, learned G.A. for the State respondent, submits that the petitioner has no locus to file the present petition as she had accepted the post of Women ASI and prays that the writ petition be rejected as the same is not maintainable.

[9] On 06.05.2024, when the matter was taken up, Mr. Ajoy Pebam, learned counsel for the petitioner, submits that it will be sufficed for the petitioner if her post of Women ASI is upgraded to the post of Women SI. Accordingly, this Court observed that the writ petition can be disposed of if there is a vacancy in Women SI in Manipur Police and the State Government can consider the petitioner against the vacancy and in case of no vacancy, supernumerary post of Women SI be created for adjusting the petitioner.

[10] Mr. Shyam Sharma, learned G.A., took 2 (two) weeks' time for seeking instruction in terms of the latest development on limited relief prayed for by the petitioner. Today, Mr. Shyam, learned G.A., submits that as per instruction, there is no vacancy of Women SI (Female/Civil) in Manipur Police for direct recruit quota and for creating a supernumerary post, the approval of the State Cabinet will be required.

[11] Mr. Shyam Sharma, learned G.A., received a copy of the letter dated 14.05.2024 sent by IGP (Admn.), Manipur to the Commissioner (Home), Government of Manipur informing that there is

no vacancy for the post of SI (Female/Civil) for direct recruit quota in Manipur Police and for creating supernumerary post of Women SI for upgrading the petitioner, the Home Department may take up necessary action.

[12] A copy of the letter dated 14.05.2014 is taken on record.

[13] Referring to para 3 of the counter affidavit and para 10 of the additional affidavit filed by the State respondent, Mr. Shyam Sharma, learned G.A., further submits that the petitioner was not selected in the earlier recruitment and her appointment was on humanitarian ground and no relief can be granted for upgradation to the post of Women SI.

[14] This Court has considered the materials on record and submissions made by the learned counsel for the parties.

[15] It is an admitted fact that the petitioner applied for the post of Women SI for direct recruitment in sports quota and she was not selected in the recruitment process as 5 (ineligible) persons were selected on the sports quota and if these 5 (five) persons were not considered, she could have been selected as Women SI in Manipur Police. It is also admitted fact that the proposal before the Cabinet was for appointment of the petitioner as Women SI.

[16] This Court is of the opinion that as the proposal was submitted for appointment as Women SI, there is an implication that there was a vacant post at the relevant time. However, the petitioner

was subsequently appointed as Women ASI in place of Women SI for which she had initially applied for.

[17] As per the letter dated 14.09.2014 issued by the IGP (Admn.), Manipur, as on date, there is no vacancy in the direct recruit quota.

[18] This Court is of the opinion that if a direction is issued to the State Government to upgrade the post of the petitioner from Women ASI to Women SI to any available post and if the same is not possible, the State government may create a supernumerary post of Women SI for upgrading the post of the petitioner, the same will be in the interest of doing complete justice. The said process be completed within a period of 6 (six) months from the date of receipt of a copy of this order.

[19] With these observations and directions, writ petition is disposed of.

[20] It is made clear that this Court does not express any opinion on the merit of the case of the petitioner and other candidates who were allegedly appointed on sports quota.

JUDGE

Kh. Joshua Maring

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