

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 555 of 2022

1. Yambem Indravhuson Singh, aged about 32 years, S/o Yambem Manimohon Singh, resident of Uripok Punchaimaning, P.O. Imphal, P.S. Lamphel, Imphal West District, Manipur-795001.
2. Sunjeet Kumar Khaidem, aged about 36 years, S/o Kh. Ibohanbi Singh, resident of Khurai Konsam Leikai, P.O. Lamlong, P.S. Porompat and District Imphal, Manipur-795010.
3. Wahengbam Anil Singh, aged about 36 years, S/o W. Amuba Singh, resident of Keishampat Leimajam Leikai, P.O. Imphal, P.S. Imphal West and District Imphal West, Manipur-795001

..... Petitioner/s

- Versus -

1. The State of Manipur through the Commissioner, Consumer Affairs Food and Public Distribution (CAF & PD), Government of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur – 795001.
2. The Controller of Legal Metrology (Weights & Measures), Govt. of Manipur, 2nd MR Gate, North AOC Lane, Imphal, Manipur – 795001.
3. The Department of Finance (PIC) through the Commissioner/Secretary (Finance), Govt. of Manipur, Imphal, Manipur – 795001.

..... Respondents.

W i t h

WP(C) No. 531 of 2022

Shri Athokpam Yoiremba, aged about 28 years, S/o A. Ranjit Singh of Thoubal Athokpam Mayai Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Principal Secretary/Commissioner/Secretary (CAF & PD), Government of Manipur, office at Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Controller, Weights & Measures Department, Government of Manipur, office at Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.
3. The Manipur Public Service Commissioner, Manipur through its Secretary, MPSC, Office at North AOC, P.O. & P.S. Imphal, Imphal West District, Manipur.
4. Shri Gangmei Kumar Kabui aged about 50 years S/o (L) G. Manglemjao Kabui, P.O. & P.S. Wangoi, Imphal West District, Manipur, PIN – 795009. Designation: Inspector, Weights & Measures Department, Lamphelpat.
5. Heskey Meinam aged about 31 years S/o Meinam Suranjoy Singh of soibam Leikai Meri Leirak, P.O. & P.S.- Porompat, Imphal East District, Manipur, PIN-795005. Designation: Inspector of Weights & Measures Department, Lamphelpat.
6. Sanabam Suraj aged about 31 years S/o Sanabam Apabi Singh of Wangkhei Koijam Leikai, P.O. Imphal, P.S. Porompat, Imphal East district, Manipur PIN-795001. Designation: Inspector of Weights & Measures Department, Lamphelpat.

..... Respondents.

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners :: Mr. Anjan Prasad Sahu, Adv.

For the respondents :: Mr. Y. Ashang, G.A. &
Mr. A. Romenkumar, Sr. Adv.

Date of hearing :: 09.11.2023 & 03.04.2024

Date of Order :: 10.04.2024

JUDGMENT & ORDER (CAV)

[1] Heard Mr. Anjan Prasad Sahu, learned counsel for the petitioners, Mr. Y. Ashang, learned G.A. for the State respondents and Mr. A. Romenkumar, learned senior counsel assisted by Mr. R K Bana, learned counsel for the private respondents.

[2] Since these matters are arising out of the same department, they are heard and considered together.

[3] The brief facts of the case in WP(C) No. 555 of 2022 is that the 3 (three) petitioners were initially appointed to the post of Inspector, Weights & Measures, Government of Manipur on 31.12.2016. The petitioners underwent Basic Training Course in Legal Metrology held in the month of November, 2018 conducted by the Ministry of Consumer Affairs Food and Public Distribution, Government of India at Ranchi for the purpose of attaining eligibility for promotion to the higher grade of Legal Metrology Officer and for grant of increments. The result of Basic Training Course was declared on 20.05.2019.

[4] The results of the petitioners were declared as compartmental/not passed. It is stated that the Director of Legal Metrology, Government of India issued a letter/circular dated 27.12.2019 to all the States and Union Territories informing that “a person who attends the Basic Training Course (BTC) at Ranchi with a minimum of 75% of attendance may be considered as successful completion of the Basic Training Course at the

Indian Institute of Legal Metrology, Ranch and may be eligible for posting”.

[5] In the notice dated 14.11.2018 issued by the Director of Consumer Affairs, Food and Public Distribution, Indian Institute of Legal Metrology, Government of India at Ranchi where it is stated that the petitioners secured attendance of 94.74% in theory and 94.64% in practical respectively.

[6] The petitioners submitted a representation dated 18.02.2020 to the Controller, Weights and Measures Department, Government of Manipur to consider their case as having successfully completed the Basic Training Course in terms of the letter/circular dated 27.12.2019 issued by the Government of India. The Controller (CAF & PD), Government of Manipur sent a letter dated 25.02.2020 to the Director of Legal Metrology, Ministry of Consumer Affairs, Food and Public Distribution, Government of India, New Delhi enquiring whether 8 (eight) trainees including the petitioners herein can be declared as having successfully completed Basic Training Course and are eligible for posting in terms of Rule 28 of the Legal Metrology (General) Rules, 2011.

[7] In pursuance to the above letter, the Deputy Director, Legal Metrology, Ministry of CAF & PD, Government of India informed the Controller (CAF & PD), Government of Manipur to consider the case of trainee who got 75% minimum attendance in terms of the circular dated 27.12.2019 issued by the Government of India. Thereafter, the Under Secretary (Finance PIC), Government of Manipur proposed for giving increments to 4 (four) Inspectors,

Weights & Measures Department, Manipur including the petitioners herein. As the said proposal has not materialised, the petitioners approached this Court for giving a direction to the State respondents that they be granted second and subsequent increment as having successfully completed the Basic Training Course session August to November, 2018 held at Ranchi as they got 94.74% attendance in theory and 96.64% in practical in terms of the circular dated 29.12.2019 issued by the Ministry of Consumer Affairs, Food and Public Distribution, Government of India earmarking a minimum of 75% attendance in the course.

[8] The State respondents filed counter affidavit wherein it is mentioned that vide letter dated 13.03.2020, the Deputy Director, Legal Metrology, Government of India only informed the Controller (CAF & PD), Government of Manipur to examine the case of the petitioners and others in terms of the circular dated 27.12.2019 and the letter does not confirm that the petitioners have successfully passed the Basic Training Course at Ranchi. It is also stated that as per the relevant Rules for grant of increments, the candidates would successfully completed the Basic Training Course and mere attending 75% attendance cannot be considered as successfully completed the course. It is further stated that as per the result of the Basic Training Course at Ranchi, the petitioners and others were not successful and hence, they are not entitled to the increment as prayed for.

[9] The petitioners filed rejoinder affidavit to the counter affidavit filed by the State respondents and reiterated that the petitioners and others who

have a minimum of 75% attendance in Basic Training Course at Ranchi would be declared successful in terms of the e-mail dated 16.11.2022. In terms of the clarificatory e-mail sent by the Professor & HoO IILM, Ranchi, it is mentioned that those who have undergone BTC in old pattern will be deemed to have successfully completed the training by considering their 75% attendance.

[10] The brief facts of the case in WP(C) No. 531 of 2022 are that the petitioner was appointed as Inspector, Weights & Measures, Government of Manipur vide order dated 23.12.2016 issued by the Commissioner (CAF & PD), Government of Manipur. The petitioner attended the Basic Training Course from August to November, 2018 at Indian Institute of Legal Metrology at Ranchi and completed the same with 94.74% attendance in theory and 96.64% in practical. In the result declared on 20.05.2019, the petitioner was mentioned as failed.

[11] Vide circular dated 27.12.2019 issued by the Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs Legal Metrology Division, Government of India, it is stated that “a person who attends the BTC at Ranchi with a minimum of 75% of attendance may be considered as successful completion of the basic training course at the Indian Institute of Legal Metrology, Ranchi and may be eligible for posting”. It is stated that in terms of the circular dated 27.12.2019, the petitioner is deemed to be successfully completed the Basic Training Course from Legal

Metrology having secured more than 75% attendance by the petitioners and 3 (three) other persons.

[12] The petitioners in WP(C) Nos. 531 of 2022 and 555 of 2022 made a common representation dated 18.02.2020 to the Controller, Weights and Measures, Government of Manipur to consider them as successfully completed the Basic Training Course at Ranchi in terms of the circular dated 27.12.2019 issued by the Government of India having attended more than 75% of attendance in the course. The Controller, Weights and Measures Department, Government of Manipur issued final seniority list of Inspectors and in the columns, having successfully completed Basic Training Course of IILM at Ranchi, is not recorded against the name of the petitioners. It may be mentioned that the Under Secretary (Finance PIC), Government of Manipur put up a proposal for conferring increment to 4 (four) Inspectors, Weights & Measures Department [the petitioners in WP(C) No. 531 of 2022 and WP(C) No. 555 of 2022], but the same has not been materialised.

[13] The petitioner submitted a representation dated 30.06.2022 to the Controller, Weights and Measures, Government of Manipur for considering grant of benefit or promotion having successfully completed Basic Training Course of Legal Metrology at Ranchi. In the legal notice dated 04.06.2022 was sent by the petitioner through his counsel to the State respondents, it is prayed that the final seniority list of the Inspector, Weights and Measures Department, Government of Manipur be modified by filling up the blank space in remark column as successfully completed Basic Training

Course at Ranchi so as to consider him for promotion to the next higher post of Assistant Controller, Weights and Measures Department, Government of Manipur. The main prayers in WP(C) No. 531 of 2022 are to rectify the seniority list of Inspector by inserting in the remark column as successfully completed BTC, to grant increment and to consider for promotion to the post of Assistant Controller and to keep in abeyance the process of promotion to the post of Assistant Controller, Weights and Measures during the pendency of the present writ petition and to dispose of the representation dated 30.06.2022. Vide order dated 13.07.2022 passed by this Court in WP(C) No. 531 of 2022, the proceedings for promotion to the post of Assistant Controller, Weight & Measures Department, Government of Manipur was kept in abeyance till next date and the interim order was extended from time to time.

[14] The State respondents filed counter affidavit reiterating the similar grounds as raised in WP(C) No. 555 of 2022 to the effect that the State respondents have to verify eligibility of the petitioner in terms of the circular dated 27.12.2019 issued by the Government of India and as per Recruitment Rules of the Assistant Controller, Weights and Measures. It is stated that only the Inspectors should have successfully passed the Basic Training Course at Ranchi can be considered for promotion and only successful completion of BTC is not sufficient for promotion to the post of Assistant Controller in terms of relevant rules. As such, the petitioner is not eligible for consideration for the promotion, after having been declared as failed in BTC at Ranchi.

[15] In the rejoinder affidavit, the petitioner has reiterated the contents of the writ petition and has further stated that as per the clarificatory e-mail sent by Professor & HoO IILM, Ranchi that those persons who have successfully completed the training by considering their 75% attendance under the old pattern will be deemed to be successfully completed the training.

[16] Mr. Anjan Prasad Sahu, learned counsel for the petitioners in both the writ petitions, submits that in terms of the circular dated 27.12.2019 issued by the Ministry of Consumers Affairs, Food and Public Distribution, Government of India, those Inspectors who have secured 75% attendance in Basic Training Course at Ranchi would be considered as successfully completed the course and are eligible for increment. He draws the attention of this Court to the Recruitment Rules for the post of Inspector, Weights and Measures, Government of India in column 9 of the RR stipulating subsequent increments will be subject to successful completion of Basic Training Course at the Indian Institute of Legal Metrology established by the Central Government.

[17] Mr. Anjan Prasad Sahu, learned counsel for the petitioners, submits that the RR provides that the increment will be entitled on successful completion of Basic Training Course at Ranchi. In terms of the circular dated 27.12.2019 issued by the Government of India, an Inspector having attended the Basic Training Course at Ranchi with minimum 75% of attendance would be considered as successfully completed the Basic Training Course. Learned counsel for the petitioners submits that on joint reading of the column 9 of the

Recruitment Rules and circular dated 27.12.2019 issued by the Central Government, it is clear that the petitioners are deemed to be treated as successfully completed the Basic Training Course at Ranchi and are eligible for increment. It is also further submitted that once the Inspector is deemed to be successfully completed the Basic Training Course for the purpose of increment in the post of Inspector, Weights and Measures, the same benefit has to be extended to them while considering for promotion to the next higher post of Assistant Controller, Weights and Measures. It is submitted that the writ petition be allowed and the petitioners be granted increment as proposed by the Finance Department and also consider for future promotion to the higher grade of Assistant Controller.

[18] Mr. Y. Ashang, learned G.A. for the State respondent, explains that the circular has nowhere stated that the petitioners be granted increment and promotion in total disregard of mandatory provisions of the Recruitment Rules. It is clear from the letter dated 13.03.2022 sent by the Deputy Director, Legal Metrology, Government of India to the Controller (CAF & PD), Government of Manipur that the State Government has to make a decision with regard to the eligibility of the petitioners for the purpose of increment as well as for considering for promotion in terms of the circular dated 27.12.2019 prescribing minimum attendance of 75% in the Basic Training Course at Ranchi. Learned G.A. has also pointed out that the result of the Basic Training Course in which the petitioners herein appeared was declared on 14.11.2018 and the circular for considering 75% attendance was subsequently issued on 27.12.2019. The circular cannot have retrospective effect and has to be

construed prospectively and hence, the petitioners are not entitled to the benefit of the circular dated 27.12.2019. It is stated that those who have failed in BTC like the petitioners herein, cannot be considered as successfully passed and/or successfully completed the training for considering of the increment as well as promotion in terms of the Recruitment Rules. It is stated that the circular cannot be overwrite the statutory Rules.

[19] Mr. A. Remenkumar, learned senior counsel for the private respondent Nos. 4, 5 & 6 in WP(C) No. 531 of 2022, submits that the petitioner has no locus to file the present writ petition.

[20] Private respondent nos. 4, 5 & 6 in WP(C) No. 531 of 2022 filed counter affidavit stating that the petitioner has no locus to file the writ petition as he is not eligible for promotion to the post of Assistant Controller, as he did not pass the mandatory Basic Training Course under the Recruitment Rules for the post of Assistant Controller. It is also stated that seniors who are not eligible cannot be considered for promotion and seniority and eligibility are different concepts. It is also stated that the circular dated 27.12.2019 cannot overwrite the Recruitment Rules in this regard and mere attending 75% classes in the Basic Training Course cannot be deemed as having passed the course as provided in the Recruitment Rules of the Assistant controller, Weights and Measures. It is prayed that writ petition be dismissed.

[21] Mr. A. Romenkumar, learned senior counsel, relies on the decisions of (i) **State of Gujarat & Ors. vs. Arvindkumar T. Tiwari & Anr.** reported as **(2012) 9 SCC 545** to the point that eligibility/norms fixed by the

statute and Rules cannot be relaxed to the extent that the same may be lower than ones fixed by the statute; (ii) **Aheibam Romel Singh vs. State of Manipur & Ors.** reported as **(2014) 3 NEJ 411 (Man.)**, it is held that the plain meaning given in the provision of the statute must be given effect to and cannot be ignored; and (iii) **A. Rajagopalan & Ors. vs. District Collector, Thiruchirapalli District & Ors.** reported as **(2019) 5 SCC 560**, it is held that in absence of any amendment framed under Article 309 of the Constitution, the decision of any administrative instruction has no consequence.

[22] This Court has considered the submissions made at the bar and the materials on record especially the circular dated 27.12.2019 issued by the Government of India and the relevant Recruitment Rules for the posts of Inspector and Assistant Controller, Weights and Measures Department, Government of Manipur. In Column 9 of the Recruitment Rules for the post of Inspector, Weights and Measures, it is provided that successful completion of Basic Training Course at Indian Institute of Legal Metrology established by the Central Government is a condition precedent for having increment by the Inspectors. In column 11 of the Recruitment Rules of Assistant Controller, Weights and Measures Department, Government of Manipur for promotion from the cadre of Inspectors, Weights and Measures to the post of Assistant Controller, an Inspector shall have 5 (five) years regular service and successfully passed the departmental examination/Basic Training Course of Inspector conducted by the recognised university.

[23] On careful consideration of the Recruitment Rules for the Inspector and the Assistant Controller, it is seen that different expressions have been used by the authority in the Rules. In the case of Inspector 'having successfully completed the Basic Training Course' is sufficient for the purpose of increment where for the purpose of promotion to the post Assistant Controller from the post of Assistant Inspector, 'successfully passed the Basic Training Course' is mandatory. Generally, increments are given after passing departmental examination or any other course prescribed by the Rules and successful completion and successfully passed the course will bear the same meaning. However, RR uses different words for the purpose of increment (successfully completed) and promotion (successfully passed). The Central Government issued clarificatory circular dated 27.12.2019 stating that "a person who attends the BTC at Ranchi with a minimum of 75% of attendance may be considered as successful completion of the basic training course at the Indian Institute of Legal Metrology, Ranchi and may be eligible for posting" to the effect of the circular stating that the successful completion will meant attendance of 75% in the course. However, in the result declared by the IILM, Ranchi on 20.05.2019, the petitioners herein were placed as compartmental or failed. In other words, the petitioners did not pass the Basic Training Course at Ranchi. However, in the notice dated 14.11.2018 issued by the IILM, the petitioners herein have attended 94.74% attendance in theory and 96.64% in practical and as such, they are deemed to have successfully completed the Basic Training Course at Ranchi in terms of the circular dated 27.12. 2019.

[24] On joint reading column 9 of the Recruitment Rules of Inspector, Weights and Measures, the circular dated 27.12.2019 and the notice dated 14.11.2018 giving the percentage of attendance in the Basic Training Course at Ranchi, at least the petitioners (having more than 75% in attendance) can be construed as successfully completed the Basic Training Course at Ranchi for the purpose of considering increment for the post of Inspector, Weights and Measures, Manipur in terms of the column 9 of the Recruitment Rules. However, for the purpose of promotion to the post of Assistant Controller, Weights and Measures, Manipur keeping in mind the requirement in column 11 prescribing successfully passed the Basic Training Course, the petitioners herein will not avail the benefit and circular dated 27.12.2019 for the purpose of promotion to Assistant Controller. In other words, the petitioners in both writ petitions are not eligible for considering for promotion to the post of Assistant Controller until they successfully pass the mandatory requirement of BTC as per RR.

[25] Accordingly, writ petition being WP(C) No. 555 of 2022 is allowed to the effect that the Inspectors who have attended the minimum 75% of attendance in the Basic Training Course of Indian Institute of Legal Metrology, Ranchi will be eligible for considering for increment in terms of the circular dated 27.12.2019 issued by the Government of India read with notice dated 14.11.2018 indicating 94.74% and 96.64% attendance of the petitioners and the relevant RR for Inspector.

[26] Writ petition No. 531 of 2022 is dismissed with respect to consideration for promotion to the post of Assistant Controller, Weights and Measures Department, Government of Manipur, as the petitioner did not pass the Basic Training Course at Ranchi from IILM, Ranchi in terms of the relevant Recruitment Rules. However, it is clarified that the petitioner will also get the benefit of increment as held in WP(C) No. 555 of 2022 in the cadre of Inspector, as he scored 75% attendance in BTC. It is directed that in the remark column of the seniority list of Inspectors, the words having successfully completed the Basic Training Course of IILM, Ranchi be recorded against the name of the petitioners/candidates, who have failed to pass the course but secured at least 75% attendance in BTC. It is further directed to upgrade the status of other Inspectors (like the private respondents) who have successfully passed the BTC in the remark column from successfully completed to successfully passed for the purpose of promotion to the post of Assistant Controller and to distinguish them from those who have failed in BTC.

[27] With these observations and directions, writ petitions are disposed of. Interim order dated 13.07.2022 passed by this Court in WP(C) No. 531 of 2022 for keeping in abeyance the proceedings for promotion to Assistant Controller, Weights and Measures shall stand vacated. No cost.

KH. JOSHUA
MARING



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Kh. Joshua Maring

JUDGE