

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

WA No. 70 of 2023

State of Manipur & anr.

Appellants

Vs.

Laishram Rakesh Singh

Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAI PHULSHILLU KABUI**

ORDER

17.07.2024

Siddharth Mridul, C.J.:

Mrs. Ch. Sundari, learned G.A., appears on behalf of the State of Manipur; and Mr. L. Raju, learned counsel, appears on behalf of the respondent.

The present writ appeal assails the judgment & order dated 02.06.2023 rendered by the learned Single Judge of this Court, whereby, the respondent authorities were directed to issue an order for appointing Laishram Rakesh Singh (the original writ petitioner) as Grade-IV/Chowkidar in terms of the recommendation of the DPC/State Level Selection Committee in its meeting held on 28.12.2016 and the consequent government approval dated 31.12.2016 within a period of four weeks from the date of the order.

The original petitioner was initially appointed as Chowkidar of Ch. Thamboumacha Aided School with effect from 18.06.2006 vide order dated 18.06.2006 and continued to serve as Chowkidar of the said school after the latter's conversion to a full-fledged government school. The original petitioner was selected vide DPC/State Level Selection Committee meeting held on 28.12.2016

recommending his absorption as Chowkidar/Grade-IV with the educational qualification of Class-VIII.

The aforesaid recommendation of the DPC/State Level Selection Committee was approved by the government for appointment vide letter dated 31.12.2016.

The government however, issued an appointment order dated 02.01.2017 where the name of the original petitioner and two other individuals were conspicuous by their absence.

The original petitioner being aggrieved by this unjustified omission in the said appointment order dated 02.01.2017, was constrained to file WP(C) No. 686 of 2019, out of which the present appeal arises.

The case of the appellant before the learned Single Judge was that the original petitioner was an unapproved Chowkidar and did not possess the minimum educational qualification required for the subject post of Chowkidar/Grade-IV staff.

In this behalf, in order to buttress this contention, our attention is invited to the order dated 02.05.2016 issued by the Government of Manipur which provides as follows:-

"GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORM
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR

Imphal, the 2nd May, 2016

No. 23/25/2016-Misc (RR)/DP : In exercise of the powers conferred under Article 309 of the Indian Constitution, the Governor of Manipur is pleased to order that in the Recruitment Rules for all Category of Grade-IV Posts under the Government of Manipur wherein the minimum educational qualifications is prescribed as minimum Class VIII/Middle School Passed, it will be amended and

replaced as HSLC/Equivalent, other essential and desirable qualifications remaining the same with immediate effect.

By orders and in the name of the Governor,

(A. Subhash Singh)
Deputy Secretary
Government of Manipur"

A plain reading of the above said order dated 02.05.2016 leaves no manner of doubt that the minimum educational qualification prescribed for Grade-IV posts under the Government of Manipur was Class VIII/Middle School Passed prior to the promulgation thereof.

It is also canvassed on behalf of the state of Manipur, al beit without conviction, that the relevant date in relation to the minimum qualification prescribed for Chowkidar/Grade-IV Staffs would be the date on which the subject school was converted from an aided school into a full-fledged government school i.e., 21.10.2016; on which date the original petitioner did not possess the requisite qualification i.e., HSLC/equivalent.

In this behalf, it would be incumbent on our part to extract the finding arrived at by the learned Single Judge vide impugned judgment & order dated 02.06.2023 and the same is reproduced herein below in extenso:-

"23. By referring to the letter dated 11.08.2022, the learned Government counsel appearing for the respondents argued that since the petitioner had not fulfilled the requisite educational qualification as prescribed in the relevant Recruitment Rules at the time of conversion of the impugned school, particularly in view of the decision of the Government conveyed under letter dated 26.11.2016, the petitioner is not entitled for absorption.

24. It is to be noted that at the time of initial appointment of the petitioner, if the qualification for the post of Chowkidar is more than Class-VIII, the school authorities ought not to have appointed the petitioner in the post of Chowkidar and thereafter allowed him to work from 2006. The State Level Selection Committee is also of the view that the absorption as Peon/Chowkidar/Grade-IV with educational qualification as Class-VIII in view of the Government letter dated 26.11.2016. Therefore, contrary to the stand taken in the Government letter dated 26.11.2016 and the contrary to the recommendation of the DPC/State Level Selection Committee, the respondent authorities cannot act thereby denying the absorption of the petitioner to the post of Chowkidar.

Hence, this Court is of the view that the claim of the petitioner is bona fide. Since the petitioner is rendering service for nearly 17 years without having the benefit of absorption, his service career and survival of his family is in a very disadvantageous situation. Therefore, finding merit in the claim made, the writ petition is liable to be allowed.”

As appositely articulated by the learned Single Judge, if the minimum qualification required at the relevant time of conversion of the school was not met by the original petitioner, he ought not to have been appointed in the post of Chowkidar in the year 2006 vide order dated 18.06.2006 and permitted to discharge his duty as such till the issuance of the impugned appointment order dated 02.01.2017. Furthermore, the State Level Selection Committee had clearly expressed the view that the absorption of the original petitioner as Chowkidar with educational qualification as Class VIII was in accordance with the Government’s letter dated 26.11.2016, now sought to be relied upon by the Government of Manipur, to deny the original petitioner. The official respondent cannot be permitted to approbate and reprobate at the same time in the same breath. Their contention as articulated herein above is on the face of it contrary to the stand taken in the government letter dated 26.11.2016 as well as the recommendation of the State Level Selection Committee.

The original petitioner cannot be denied the benefits of absorption as Chowkidar/Grade-IV on the flimsy grounds canvassed hereinabove after utilizing his service for nearly 17 years. The same would tantamount not only to defeating his legitimate expectation but is also manifestly contrary to the said order dated 02.05.2016 issued by the Government of Manipur.

In view of the foregoing, the present writ appeal is devoid of merit and is accordingly dismissed.

The State of Manipur is consequently directed to appoint the original petitioner as Grade-IV/Chowkidar in terms of the recommendation of the DPC/State

Level Selection Committee taken in its meeting held on 28.12.2016 and the consequent government approval letter dated 31.12.2016 and to include his name in the approval letter dated 31.12.2016 issued by them in this behalf, forthwith.

In the facts and circumstances, we also consider it appropriate to award cost of litigation to the original petitioner which are quantified in the sum of Rs. 20,000/- (Rupees twenty thousand) within 4(four) weeks from today.

JUDGE

CHIEF JUSTICE

Indrajeet