

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

**WP(C) No. 570 of 2024 with
MC(WP(C) No. 518 of 2024 with
MC(WP(C) No. 519 of 2024 with
MC(WP(C) No. 498 of 2024 with
MC(WP(C) No. 472 of 2024 with
MC(WP(C) No. 494 of 2024**

Moirangthem Bisheshwor Singh & 7 Ors.

.....Petitioner/s

- Versus -

State of Manipur & 47 Ors.

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

02.09.2024

[1] Present Mr. BP. Sahu, learned senior counsel assisted by Mr. AP. Sahu, learned counsel for the petitioners, Mr. M. Devananda, learned Addl. A.G. assisted by Mr. I. Denning, learned counsel and Ms. Jyotsana, learned counsel for the State respondent as well as DMU, Mr. RK. Deepak, learned senior counsel assisted by Mr. Dennis Tokpam, learned counsel for respondent No. 30, Mrs. G. Pushpa, learned counsel for respondent No. 32, Mr. Armananda, learned counsel for respondent Nos. 14 & 48, Mr. L. Anand, learned counsel for respondent No. 31 and Mr. L. Sevananda, learned counsel along with Mr. Shivarix, learned counsel for respondent No. 13.

[2] Mr. RK. Deepak, learned counsel for respondent No. 30, Mr. L. Anand, learned counsel for respondent No. 31 and Mrs. G. Pushpa, learned counsel for respondent. No. 32, submit that those respondents who are shown in Zoology subject ought to be shown in group-A. It is clarified that these respondents may submit their representation to the authority and the same may be considered and the pendency of the writ petition shall not bar in taking a proper decision.

[3] By the impugned notification dated 18.07.2024 consisting of table-A, B & consolidated table-C, the recommendation for appointment as Assistant Professor in 22 subjects was made. It may be stated that the notification dated 18.07.2024 has been issued in supersession of the earlier notification dated 29.02.2014 where 83 persons in 21 subjects were recommended for appointment as Assistant Professors in Dhanamanjuri University. However, in the impugned notification dated 18.07.2024 comprising of table-A candidates recommended in the earlier notification dated 29.02.2024 with respect to the Physics and Botany subject have been left out for some other reasons. It may be noted that table-A in the impugned notification dated 18.07.2024 corresponds to the original list published on 29.02.2024 except for Physics and Botany.

[4] Mr. BP. Sahu, learned senior counsel for the petitioner, is aggrieved by the contents of table-B where 60 additional posts were not included in the earlier notification dated 29.02.2024 and advertisement were also recommended. 4 (four) of them were

unsuccessful candidates in the recruitment and 4 (four) were aspirants who have not appeared in the recruitment. As per Mr. BP. Sahu, learned senior counsel for the petitioners, the petitioner Nos. 1 to 4 are unsuccessful candidates and 5 to 8 are aspirants for the post of Assistant Professors.

[5] By the present writ petition, the petitioners challenged the recruitment praying to set aside the whole notification dated 18.07.2024. Vide order dated 16.08.2024, this Court kept in suspension any appointment purported to be issued in pursuance of the notification dated 14.08.2024 issued by the DMU. However, the notification dated 14.08.2024 was not a part of the writ petition as the same has been issued subsequently.

[6] Mr. M. Devananda, learned Addl. A.G., has pointed out that vide notification dated 14.08.2024, the Registrar, DMU informed that the appointment order for teaching and non-teaching staff are likely to be issued with effect from 16.08.2024 and by the interim order dated 16.08.2024, this Court has stayed all appointments to be made for teaching and non-teaching staff. It is pointed out that in the present writ petition, non-teaching staff of the DMU is not a subject matter. Mr. M. Devananda, learned Addl. A.G. has also pointed out that the main ground for challenge in the present petition is the excess appointment more than the posts advertised and by the interim order dated 16.08.2024, this Court stayed the appointment of all posts. It is also pointed out that the writ petition is not maintainable in the present form as 4 (four) of the writ petitioners are unsuccessful candidates and the

remaining 4 (four) have not mentioned the subject in which they are expected to apply for. It is prayed that by the interim order, the whole appointment process in DMU has been delayed thereby affecting the academic atmosphere. It is submitted that the interim order be vacated.

[7] Mr. Ajoy Pebam, learned counsel for the applicants belonging to the table-A, submits that by the interim order, their appointments have also been stayed and the interim order with respect to table-A may be modified.

[8] Mr. RK. Deepak, learned senior counsel, Mrs. G. Pushpa and Mr. L. Anand, learned counsel for candidates appointed against Zoology subject, submit that the 4 (four) posts were initially included in the initial advertisement and in the impugned notification dated 18.07.2024, Zoology has inadvertently included in the table-B instead of table-A as the same was to be included in the original table. It is stated that the interim order with respect to Zoology paper may be vacated.

[9] Mr. BP. Sahu, learned senior counsel for the petitioners, draws the attention of this Court to the decision of the Hon'ble Supreme Court in the case of **Anurag Kumar Singh vs. State of Uttarakhand** reported as **(2010) 2 SCC 9 SCC 426, para 11** which stipulates that future vacancy cannot be included in the post advertised earlier. Learned senior counsel for the petitioner also relies on the decision of the Hon'ble Supreme Court reported as **(2010) 2 SCC 637** which stipulates that additional posts more than the post advertised cannot be filled up.

[10] Mr. M. Devananda, learned Addl. A.G., refers to para 7 of the general terms and conditions of the advertisement dated 13.09.2020 where it stipulates that consequential vacancy arising at the time of interview may also be considered for appointment.

[11] This Court is of the opinion that the locus of the petitioner as well as the relevant appointment of excess than the posts advertised be considered on the next date including (i) the question of maintainability of the writ petition in the present form, (ii) suppression of the material facts by the petitioner and (iii) permissibility of appointment of more posts than advertised.

[12] Even though, the main oral submission of Mr. BP. Sahu, learned senior counsel for the petitioners is with respect to table-B of the impugned notification dated 18.07.2024, however in prayer (ii), the petitioners have challenged the whole impugned notification dated 18.07.2024. It is submitted that he is confining his challenge to table-B in Annexure-A/3 i.e. notification dated 18.07.2024 and by the present application being MC(WP(C) No. 518 of 2024, it is proposed to amend prayer (ii) of the writ petition by adding the sentence in respect of respondent Nos. 3 to 48 whose names appeared in table-B of the said order.

[13] Learned counsel for the respondents and applicants have no objection.

[14] Accordingly, prayer (ii) is amended by inserting in respect of respondent Nos. 3 to 48 whose names appeared in table-B of the said order.

[15] With this observation, MC(WP(C) No. 518 of 2024 is allowed and disposed of.

[16] The petitioners are directed to make necessary incorporation in the writ petition.

[17] Mr. L. Anand, learned counsel for respondent No. 31, filed MC(WP(C) No. 519 of 2024 for vacating/modifying the interim order dated 16.08.2024 passed by this Court in WP(C) No. 570 of 2024. Since the petitioner is confining his challenge to the excess appointment, the interim order with respect to candidates appearing in table-A of notification dated 18.07.2024 is vacated. Since the appointment of non-teaching staff is not also subject matter of the writ petition, the interim order dated 16.08.2024 with respect to appointment of non-teaching staff is also vacated and the authorities are at liberty to issue necessary orders if advised so, as per rule.

[18] Since the interim order with respect to candidates in table-A is vacated, application being MC(WP(C) No. 494 of 2024 filed by Mr. Ajoy Pebam, learned counsel on behalf of some of the candidates from table-A, has become infructuous and is closed.

[19] MC(WP(C) No. 498 of 2024 is an application filed by respondent No. 30 for transferring his name from table-A to table-B as his name was inadvertently included in table-B. Authority may consider the representation.

[20] During the course of hearing, Mr. M. Devananda, learned Addl. A.G. informs this Court that on 16.08.2024, DMU has issued appointment orders in terms of the recommendation of the impugned

notification dated 18.07.2024. Hence, the prayer in MC(WP(C) No. 498 of 2024 and main writ petition have become infructuous and there is no table-A, B & C in the order dated 16.08.2024.

[21] At this stage, Mr. BP. Sahu, learned senior counsel for the petitioners, submits that after the issuance of another appointment order dated 16.08.2024 by the DMU making appointment for 20 subjects in pursuance of the recommendation made in the impugned notification dated 18.07.2024, the cause of the writ petition has been frustrated by subsequent event. On instruction, he prays for withdrawal of the present petition with liberty to challenge the appointment order dated 16.08.2024.

[21] Learned counsel for the respondents have no objection.

[22] Recording the submissions made at the bar, writ petition is dismissed as withdrawn. Interim order is vacated and misc. applications are also disposed of in terms of the above order.

JUDGE

Kh. Joshua Maring

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by KH. JOSHUA
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