

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

Sup 5-7

WP(C) No.703 of 2022 with
MC (WP(C)) No.43 of 2023 with
WP(C) No.203 of 2023

Brahmacharimayum Ravi Sharma & 2 Ors ... ***Petitioners***

Versus

State of Manipur & 3 Ors ... ***Respondents***

**BEFORE
HON'BLE MR.JUSTICE A.GUNESHWAR SHARMA**

3.12.2024

Present Ms.A.Noutuneshwari, learned counsel for the petitioner, Mr.Shyam Sharma, learned Government Advocate for the State, Ms.O.Momota, learned senior counsel assisted by Ms.Tejpriya, learned counsel for the MPSC and Mr.Juno Rahman, learned counsel for some of the private respondents.

[2] The petitioners filed WP(C) No.703 of 2022 for directing the respondents to consider the application of the petitioners dated 16.8.2022 for review of the proposal to the MPSC for promotion to the post of Assistant Engineer, (Civil), in the PWD, Manipur. In WP(C) No.203 of 2023, the petitioners challenged the proceedings of the DPC held on 17.02.2023 and promotion order dated 20.02.2023 of private respondents to the post of Assistant Engineers (Civil). The petitioners are Section Officer, Grade-I (Civil) appointed vide order dated 24.12.2016. The petitioners are aggrieved by the promotion of the forty numbers of private respondents vide impugned promotion order dated

20.02.2023 whereby 40 (forty) Section Officer Gd/I were promoted to the post of Assistant Engineers in the PWD, Manipur on the basis of the recommendation of the DPC dated 17.2.2023 conducted by the MPSC.

The petitioners also challenged the proceedings of the DPC as well as the promotion order. During pendency of the writ petition, except petitioner No.1, all other petitioners prayed for deleting their names and only one writ petitioner is pursuing both the writ petitions.

[3] Learned counsel for the petitioner draws attention of this Court to the opinion dated 16.9.2022 given by the DP that there are 57 (fifty seven) posts of Assistant Engineers in the promotion quota. Admittedly, in the DPC proceedings, forty two names of S.O Grade/I were recommended for consideration by the DPC and the DPC, after perusing the matter, recommended forty Section Officer Gd/I to the post of Assistant Engineer (Civil) in the PWD.

38 (thirty eight) numbers of Section Officer Gd/I were promoted to the post of A.E and appointment order of four more Section Officer, Gd/I were to be issued after Vigilance clearance.

[4] The grievance of the petitioner is that some of the persons who were to be adjusted against supernumerary quota were adjusted against the regular vacancy thereby ousting the petitioner's name from consideration for promotion. It is also stated that 42 (forty two) names were recommended out of 57 (fifty seven) vacancies and the petitioner is at Sl.No.58 in the combined seniority list of AEs in the PWD and persons at Sl.Nos.5, 6, 8 and 10 in the combined seniority list as on 19.1.2024 had already retired on attaining the age of superannuation before the date of DPC and the petitioner, whose effective position at

Sl.No.54, would have been eligible for consideration in the 57 (fifty seven) seats earmarked for regular vacancy.

[5] Mr.Shyam Sharma, learned Government Advocate draws attention of this Court to the counter affidavit filed by respondents in both the writ petitions stating that there are 57 (fifty seven) posts earmarked for promotion quota to the post of Assistant Engineer and out of the 40 (forty) number of clear vacancies, six number of vacancies arose for the DPC to be conducted in the year 2023. Since the petitioner's effective seniority list was Sl.No.54 in the combined seniority list, his name could not be considered at that time.

[6] Ms.O.Momota, learned senior counsel for the MPSC adopts the submission of the learned Government Advocate. Mr.Juno Rahman, learned counsel for the private respondents submits that the private respondents are much senior to the petitioner and they have to be considered first in the available vacancy for promotion and there is no illegality in the promotion of the private respondents vide impugned order dated 20.02.2023.

[7] Ms.A.Noutuneshwari, learned counsel for the petitioners submits that most of the private respondents are to be considered against the quota earmarked in the supernumerary post and since they have been adjusted against regular vacancy, petitioner and similarly situated persons have been ousted from consideration by the DPC.

[8] This Court has considered the submissions made at the Bar and materials available on record and is of the view that the writ petitions can be disposed of without going into the merit of the DPC dated 7.2.2023 and promotion order dated 20.02.2023, by directing the State respondents to consider the case of the petitioner for promotion to the post of Assistant Engineer (Civil) in the PWD, if he is otherwise

eligible as per Rule. If the petitioner is eligible for promotion on the date of DPC dated 7.2.2023, he may be given all service benefits as given to the similarly situated persons. Writ Petitions are disposed of in terms of the above directions and observations.

[9] It is made clear that this Court does not express any opinion on the merit of the case. The case of the petitioner may be considered as per Rule.

The exercise may be completed within a period of three months from the date of receipt of copy of order of this Court.

Furnish a copy of this order to learned counsel for the parties, in the course of the day.

With this observation, the writ petition along with the Misc Cases are disposed of. Interim orders, if any, stand vacated.

JUDGE

Priyojit

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SINGH

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by RAJKUMAR
PRIYOJIT SINGH
Date: 2024.12.04
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