

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

**WP(C) No. 857 of 2024 with
MC(WP(C) No. 787 of 2024**

Gyanilaxmi Thongam

.....Petitioner/s

- Versus -

State of Manipur & 3 Ors.

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order (Oral)

17.12.2024

[1] This matter is taken up as supplementary item on mentioning.

[2] Heard Mr. I. Denning, learned counsel for the petitioner, Mr. S. Nepolean, learned G.A. assisted by Mrs. RK. Emily, learned Dy. G.A. for the State respondent and Mrs. O. Momota, learned senior counsel assisted by Ms. Tejpriya, learned counsel for respondent No. 4 (MPSC).

[3] The petitioner was initially appointed as Programme Manager (SARA) on contract basis vide order dated 04.10.2013 and her service was regularized vide order dated 05.12.2016 in the same post.

[4] The petitioner submitted numerous representations for framing Recruitment Rules for the post of Programme Manager (SARA)

as well as to maintain her seniority list from the date of initial appointment and also to include the post of Programme Manager (SARA) as a feeder post for promotion to the post of Deputy Director, Social Welfare Department.

[5] Mr. I. Denning, learned counsel for the petitioner, draws the attention of this Court to the Recruitment Rules, 2015 of the Deputy Director, Social Welfare Department whereas 8 (eight) different posts are enumerated as feeder post for promotion to Deputy Director, Social Welfare Department. It is also pointed out that vide notification dated 25.11.2021, the Director, Social Welfare Department issued a draft recruitment rules for the post of Deputy Director, Social Welfare Department wherein 3 (three) more posts i.e. Programme Manager (SARA) at serial No. 8, Programme Officer (SCPS) at serial No. 11 and OSD (SIWEP) at serial No. 7 were proposed to be included in the Recruitment Rules, 2015 and it is stated that the same is pending for finalization.

[6] Earlier the petitioner approached this Court by way of writ petition being WP(C) No. 72 of 2023 inter-alia praying for finalization of recruitment rules and to maintain her seniority list in the cadre from the date of initial appointment and vide order dated 28.08.2023, this Court directed the State respondent to expedite the process of framing recruitment rules for Programme Manager (SARA), Programme Officer (SARA), Programme Assistant (SARA) and Programme Officer (SCPS) in the Social Welfare Department, Manipur within a period of two months. Since the direction has not been complied, the petitioner filed

the contempt case and the same is disposed of as recruitment rules for Programme Manager (SARA) was published vide notification dated 18.10.2024.

[7] The petitioner is aggrieved by the inter-se seniority list of District Social Welfare Officer, Programme Officer/District Programme Officer/Child Welfare Officer dated 30.10.2024, as her name has been excluded even though other officers are included in the final seniority list.

[8] It is also pointed out that some other employees of the Social Welfare Department also challenged the final seniority list dated 30.10.2024 and vide order dated 11.12.2024, this Court directed the State respondent to include the name of those two petitioners in the final seniority list.

[9] Mr. I. Denning, learned counsel for the petitioner, submits that the State respondent sent a letter dated 04.11.2024 to the Commissioner (Social Welfare), Government of Manipur for appointment of one post of Deputy Director on promotion from amongst the feeder post originally mentioned in the Recruitment Rules, 2015. It is pointed out that by non-finalization of the draft amendment of the RR for the post of Deputy Director, Social Welfare Department dated 25.11.2021, the petitioners and others whose posts are proposed to be included in the Recruitment Rules, 2015 would not be able to appear in the DPC despite having vacancy.

[10] Mr. S. Nepolean, learned G.A. for the State respondent, has pointed out that since the draft rule is yet to be finalized, the

promotion to one post of Deputy Director, Social Welfare is to be considered on the basis of available feeder cadre and until and unless the post held by the petitioner and others are included in the feeder cadre by amending rules, they may not be able to appear in the DPC for promotion.

[11] Mr. I. Denning, learned counsel for the petitioner, has pointed out that the draft amendment to the recruitment rules of Deputy Director, Social Welfare for inclusion of three new posts including the post held by the petitioner is pending since 2021 and the State Government may be directed for finalization of the same so that the petitioner may also be eligible for appearing in the DPC.

[12] Mrs. O. Momota, learned senior counsel for the MPSC, submits that at this stage, the commission has no active role and this Court may pass appropriate order.

[13] This Court has gone through the materials on record and considered the submissions made at the bar.

[14] This Court is aware of the fact that the draft amendment to the recruitment rules for Deputy Director, Social Welfare proposing to include three new posts as feeder cadre including the post held by the petitioner is still pending for a considerable period of time and if the draft rule is not finalized, the petitioner would not be able to appear in the proposed DPC for promotion to the post of Deputy Director, Social Welfare Department. It is the consistent stand of the State Government that the draft amendment to the recruitment rules for Deputy Director, Social Welfare Department could not be finalized earlier, as there were

no recruitment rules for the post of Programme Manager (SARA) and Programme Officer (SCPS). Since the recruitment rules for the post of Programme Manager (SARA) and Programme Officer SCPS) have been finalized by the State respondent, this Court is of the opinion that there should be no impediment for the State respondent to finalize the final recruitment rules for the post of Deputy Director, Social Welfare Department.

[15] Mr. S. Nepolean, learned G.A. for the State respondent, submits that the notification dated 04.11.2024 for the initiation of recruitment of one post of Deputy Director, Social Welfare is to be conducted as per the existing recruitment rules and since the petitioner and others' posts are not in the feeder post of the Deputy Director, Social Welfare, they may not be eligible for appearing in the DPC.

[16] The only impediment on the State respondent to finalize the proposed amendment for recruitment of Deputy Director, Social Welfare by introducing three new posts in the feeder posts was due to the fact that the recruitment rules for the posts of Programme Manager (SARA) and Programme Officer (SCPS) were not finalized. Admittedly, since the recruitment rules for Programme Manager (SARA) and Programme Officer (SCPS) have already been finalized recently, there should be no impediment to the State respondent for finalizing the proposed amendment to the recruitment rules for Deputy Director, Social Welfare proposing to incorporate three new posts as feeder post. It may be noted that recently Hon'ble Supreme Court held in the

case of State of **HP vs. Rajkumar : (2023) 3 SCC 773** that the rule at the time of recruitment is relevant for the purpose of appointment.

[17] Since the draft proposal is pending since the year 2021, it will be in the interest of justice to direct the respondent (State) to finalize the draft recruitment rules for the post of Deputy Director, Social Welfare before holding of the DPC for the proposed promotion to the post of Deputy Director, Social Welfare. Otherwise the petitioner and other similarly situated persons would be deprived of a right to be considered for promotion.

[18] With this observation, writ petition is disposed of.

[19] It is made clear that this Court does not express any opinion on the merit of the case.

[20] The whole process may be expedited preferably within a period of three months from the date of receipt of a copy of this order.

[21] Misc. application is also disposed of in terms of the above order.

[22] Furnish a copy of this order to the learned counsel appearing for all the parties.

JUDGE

Kh. Joshua Maring

**KH. JOSHUA
MARING**

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KH. JOSHUA
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Date: 2024.12.20
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