

Item No.4

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

WP(C)No.1090 of 2022

Naoroibam Berla Singh aged about 24 years S/o Naoroibam Jadumani
Singh of Singjamei Wangma Pebiya Pandit Leikai, PO & PS Singjamei,
District-Imphal East, Manipur-795008.

...Petitioner

- Versus-

The Union of India represented by the Secretary, Ministry of Culture,
Government of India, 502-C Shatri Bhwan, New Delhi-11001 & 4 Ors.

...Respondents

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA
ORDER
(Oral)

09.05.2024.

[1] Heard Mr. Ajoy Pebam, learned counsel appearing for the petitioner,
Mr. S. Vijayanand Sharma, learned Sr. PCCG for respondent No.1, Mr.
Sarvan Kumar, learned counsel for respondent Nos. 2 & 4, Mr. Y.
Nirmolchand, learned senior counsel for respondent No.3 and Mr. Th. Ibohal,
learned senior counsel for respondent No.5.

[2] The petitioner approached this Court praying for a direction in the
nature of Quo-Warranto assailing the appointment/promotion order dated
29.06.2017 issued by respondent No.3 in favour of respondent No.5 on the
ground that the respondent No.5 ought to have retired in the year 2017.

[3] The prayer is reproduced as follows:

- (i) issue rule nisi calling upon the respondents to show cause to why the prayer prayed for by the petitioner shall not be granted.*
- (ii) issue a writ of quo-warranto thereby declaring the promotion of the service of the private respondent No.5 to the post of the Senior Production Assistant, JNMDA as illegal and unconstitutional and consequently, quash the Office being No.6(7)94-95/JNMDA dated 29.06.2017 issued by the Director, the Jawaharlal Nehru Manipur Dance Academy, Imphal.*
- (iii) pass any other appropriate writ directing the official respondents to initiate the Criminal/disciplinary proceeding against the private respondent No.5 for illegal/criminals act.*
- (iv) Pass any other appropriate writ directing the official respondents to recover the amounts which are illegal withdrawal from the Office of the Jawaharlal Nehru Manipur Dance, Academy, Imphal or any order/direction that this Hon'ble Court deems fit and proper in the interest of justice.*

[4] Mr. Ajoy Pebam, learned counsel for the petitioner submits that as per initial entry in the service book of respondent No.5, her date of birth is recorded as 1957 and later on, the respondent No.5 manipulated the same and converted into as 01.01.1963 and as such, she ought to be retired in the year 2017 and the promotion order dated 29.06.2017 promoting her from the post of Junior Production Assistant to the post of Senior Production Assistant is invalid as she was to retire before the date of the promotion order in terms of the FR 56. He further stated that if the date of birth of respondent No.5 is

written as 01.01.1963 then, the respondent No.5 entered the service at the age of 14(fourteen) years.

[5] Mr. Sarvan Kumar, learned counsel for respondent Nos.2 & 4 submits that the writ petition is not maintainable in the present form as the petitioner has challenged the promotion order of respondent No.5 from the post of Junior Production Assistant to the post of Senior Production Assistant whereas the petitioner has not challenged the initial appointment as Female Artiste as well as promotion to Junior Production Assistant and as such it is submitted that writ petition may be dismissed as not maintainable. It is pointed out that the respondent No.5 has all the requisite qualifications for promotion to the post of Senior Production Assistant.

[6] Mr. Y. Nirmolchand, learned senior counsel for respondent No.3, JNMDA has adopted the submission made on behalf of the Sangeet Natak Akademi who is the controlling body of the JNMDA.

[7] Mr. Th. Ibohal, learned senior counsel for respondent No.5 has also adopted the submissions of Mr. Sarvan Kumar, learned counsel for Sangeeta Natak Akademi and says that the writ petition is filed in the year 2022 just before the respondent No.5 was to retire.

[8] Mr. Ajoy Pebam, learned counsel for the petitioner further submits that in the writ of quo-warranto cannot be rejected on the basis of delay and laches alone. It is submitted that the second 3(three) Members Enquiry Committee is without any authority and the finding of the same is in contrast with finding of the 1st Enquiry Committee who is acting the initiative by the

JNMDA. It is submitted that the findings of the 1st Enquiry Committee is still subsisting and is not modified.

[9] Mr. Sarvan Kumar, learned counsel for respondent Nos. 2 & 4 highlighted that the Second Enquiry Committee was instituted as the First Enquiry Committee is illegal. It is pointed out that the Enquiry Officer was a person who was below the rank of respondent No.5 upon whom the enquiry was initiated and hence, the Second Enquiry Committee was instituted.

[10] It is clarified that in the findings of the second enquiry, the initial date in the service record was 1957 without any months and day and later on, it was corrected as 01.01.1963 on the basis of matriculation certificate of the employee by the Academy and the date of birth in service and pension book is recorded as 01.01.1963.

[11] Mr. Th. Ibohal, learned senior counsel for respondent No.5 submits that respondent No.5 retired from service on superannuation on 31.12.2022.

[12] This Court has considered the submissions made at the bar and materials available on record and the relevant laws in this regard. In the writ of quo-warranto, the petitioner has not satisfied the Court that the incumbent who has been appointed does not have the requisite qualification prescribed by the recruitment rules.

[13] As per column 7 of the recruitment rules, the essential qualifications for the post of Senior Production Assistant are given below:

A. Essential:

(i) Graduate from a recognized University.

(ii) Having 8 years experience in stage production.

(iii) Passed Diploma Course of the JNMDA or having equivalent standard from other institutions.

B. Desirable: Having the knowledge of stage craft, scenic design, lighting, organization and choreography.

[14] It is not the case of the petitioner that respondent No.5 does not have any of the essential qualifications as prescribed in column 7 of the recruitment rules. The petitioner has not challenged the initial appointment of respondent No.5 dated 18.08.1993 as Female Artiste and subsequent promotion to the Junior Production Assistant. The only challenge in the present writ petition is promotion order dated 29.06.2017 whereby the respondent No.5 was promoted from the post of Junior Production Assistant to the post of Senior Production Assistant for which the respondent No.5 has all the requisite qualifications. That being so, the writ petition praying direction in the nature of quo-warranto praying for quashing promotion order as overaged would not be maintainable in the present form and accordingly, the present writ petition is dismissed. No costs.

JUDGE

John Kom