

GAHC040016962024

2024:GAU-AP:1135



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/553/2024

Charu Tach
Age: 29
Occupation :
Address: Son of Late Charu Tago
permanent resident of Tirpu Village
PO Chambang
PS Palin
Kra Daadi District
Arunachal Pradesh.

VERSUS

The State of AP and 3 Ors
Age: 0 Occupation : Address: through the Commissioner/ Secretary
Department of Power Govt of Arunachal Pradesh Itanagar.

2: The Commissioner/ Secretary Age: 0 Occupation :
Address: Department of Power Govt of Arunachal Pradesh Itanagar.

3: The Superintending Engineer (Establishment)
Age: 0
Occupation :
Address: Arunachal Pradesh Electrical Circle No. I cum Coordinator
Department of Power
Naharlagun
Papum Pare District
Arunachal Pradesh.

4: The Special Investigation Team (Crime Branch)
Age: 0 Occupation : Address: through the Superintendent of Police (Crime Branch)
through the Superintendent of Police (Crime Branch) Police Head Quarters Itanagar.

Advocate for : Dicky Panging
Advocate for : Lissing Perme appearing for The State of AP and 3 Ors: Advocate ,

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 13.12.2024

Date of Judgment : 13.12.2024

Judgment & Order(Oral)

Heard Mr. Dicky Panging, learned counsel appearing on behalf of the petitioner. Also heard Mr. Lissing Perme, learned standing counsel, Department of Power, and Mr. Jambey Tsering, learned P.P., Arunachal Pradesh, appearing on behalf of their respective respondents.

2. The present writ petition has been instituted by the applicant, herein, praying for a direction upon the respondent authorities, more particularly, the Respondent No. 3 for declaration of the results of the petitioner in terms of the selection process so conducted in pursuance of an advertisement, dated 12.06.2020, for filling up of two temporary Group 'B' (Non-Gazetted) Technical Posts of Junior Engineer(Electrical) under the Meritorious Sports Persons Quota, reserved for the Arunachal Pradesh Scheduled Tribe (APST) candidates, in the establishment of the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No. I-cum-Coord., Department of Power, Naharlagun.

3. The Respondent No. 3, herein, had vide the Advertisement, dated 12.06.2020, invited applications from persons fulfilling the eligibility criteria for filling up of the 2(two) posts of Junior Engineer(E) under the Meritorious Sports Persons quota reserved for the Arunachal Pradesh Scheduled Tribe(APST) candidates in the Department of Power.

4. It is projected in the present proceeding, that the petitioner, herein, had represented the State in the Sport of Karate in various State level, National

level and International level Karate championships and accordingly, having satisfied the eligibility criteria so stipulated in the said Advertisement, dated 12.06.2020; submitted his application for recruitment against the post reserved for Meritorious Sports Persons candidates. It is further submitted that the petitioner belongs to the Arunachal Pradesh Scheduled Tribe(APST) community.

5. As projected further in the writ petition, along with the petitioner, 33 other candidates had offered their candidature in pursuance of the said Advertisement. However, the respondent authorities on scrutiny of their applications, vide order, dated 21.08.2020, proceeded to reject 23 candidates on various grounds by issuing an order, in this connection. Vide Notification, dated 31.08.2020, the name of the petitioner was short-listed and was directed to appear before the Selection Board along with all original documents in support of his claim. The petitioner, accordingly, appeared before the Board on 15.09.2020 and it is contended that out of the 11 candidates who were found eligible for appearing in the selection process; 10 candidates including the petitioner, herein, had so appeared. The petitioner was so short-listed for consideration under the Meritorious Sports Persons quota against Karate. Before the said selection process could be taken to its logical conclusion, a First Information Report (FIR) came to be lodged by the President, Arunachal Pradesh Taekwondo Association, on 25.06.2021, before the Officer-in-charge, Special Investigation Team(SIT), inter alia, alleging therein, that some persons who were not players of the sport Taekwondo, were using fake documents claiming recruitment under the Meritorious Sports Persons quota in various Departments of the Government of Arunachal Pradesh. It is seen that in terms of the inquiry conducted in pursuance of the said First Information Report(FIR), dated 25.06.2021, a Crime Branch P.S. FIR No. 07/2021, under Sections 420/468/471/34 of the Indian Penal Code, came

to be registered. The petitioner, herein, was also summoned by the I.O. in respect of the said case and his certificates came to be seized. On completion of the investigation by the Special Investigation Team(SIT), a charge sheet, dated 17.03.2022, came to be laid before the Court of learned Chief Judicial Magistrate, Yupia, under Sections 420/468/471/34 of the Indian Penal Code, against 19(nineteen) persons. However, the name of the petitioner, herein, did not figure as an accused in the said charge sheet.

6. Being aggrieved by the non-declaration of the result of the selection process so carried-out in the matter; on 15.09.2020, in pursuance of the said Advertisement, dated 12.06.2020, 2(two) persons who had participated in the said selection process, as petitioners, instituted WP(C)227/2022, before this Court seeking a direction upon the respondent authorities for declaration of the results thereof.

7. This Court, vide order, dated 12.03.2024, was pleased to dispose of the said writ petition being WP(C)227(AP)2024, by directing the respondent authorities to declare the result of the selection process so initiated in pursuance of the Advertisement, dated 12.06.2020.

8. At this stage, a development had taken place, in-as-much as, the Special Investigation Team(SIT) had laid a supplementary charge sheet No. 05/2022(B), dated 28.03.2024, under Sections 420/468/471/34 of the Indian Penal Code, against the petitioner, herein, and 12(twelve) others.

9. The respondent authorities, in terms of the directions passed by this Court vide order, dated 12.03.2024, proceeded to declare the results of the

said selection process in respect of 2(two) candidates against the post of Junior Engineer(E) so advertised vide Advertisement, dated 12.06.2020, namely, Shri Ralung Rigom and Shri Dubom Lego. It is stated that the said selected candidates were offered with appointment orders. However, it is projected in the writ petition that said Shri Dubom Lego who was also issued with an appointment order, did not join his service. Accordingly, 1(one) post of Junior Engineer(E) so advertised vide the Advertisement, in question, under the Meritorious Sports Persons quota, is contended to be lying vacant even as on date.

10. At this stage, the petitioner, along with 7(seven) others, approached this Court by way of instituting Crl.Pet. No. 126/2024, assailing the supplementary charge sheet, dated 28.03.2024. This Court, vide order, dated 04.09.2024, on considering the issues so arising in the matter, was pleased to set aside and quash the charge sheet No. 05/2022(B), dated 28.03.2024, involving the petitioner, herein, and others. On the quashing of the said supplementary charge-sheet, the petitioner proceeded to submit representation before the respondent authorities for declaration of his result as well as for his appointment against the advertised post of Junior Engineer(E) stated to be lying vacant.

11. The said representation so preferred by the petitioner having not evoked any response; the petitioner, herein, has instituted the present proceeding.

12. It is the contention of the petitioner, that his result was not so declared only on account of the fact that a supplementary charge sheet arraying him as an accused, came to be laid in the matter. However, on quashing of the said charge sheet by this Court, vide order, dated 04.09.2024, passed in Crl.Pet.

No. 126/2024; there exists no bar for declaration of the result of the petitioner, herein, in the matter. It is reiterated that the petitioner had also participated in the said selection process so held in pursuance of the said Advertisement, dated 12.06.2024.

13. This Court, on noticing the issues so arising in the matter; vide order, dated 06.12.2024, had required Mr. Perme, learned standing counsel, Department of Power, to receive instructions with regard to the marks scored by the petitioner, herein, in the selection process for recruitment to the post of Junior Engineer(E) in pursuance of the said Advertisement, dated 12.06.2020. It was further directed that the learned standing counsel shall also receive instructions as to whether the marks scored by the petitioner in the recruitment process would bring him within the merit position mandating issuance of appointment order in his favour.

14. Mr. Perme, learned standing counsel, Department of Power, has received written instructions in the matter from the Respondent No. 3. In terms of the said instructions so received by Mr. Perme, learned standing counsel, and placed before this Court; it is found that in pursuance of the directions passed by this Court vide order, dated 12.03.2024, in WP(C)227(AP)2022; the Selection Board had re-verified the viva voce/personality test/sports certificates, educational certificates and other relevant certificates of 5(five) candidates for recruitment to the post of Junior Engineer(E) under the Meritorious Sports Persons quota and after thorough examination and verification; the Selection Board had recommended the names of 2(two) most Meritorious Sports Persons certificates holders viz. Shri Ralung Rigom and Shri Dubom Lego, for appointment against the 2(two) posts of Junior Engineer(E) so advertised vide the Advertisement, in question. It was further clarified in

the said written instructions so furnished before this Court, that in the said selection process so held; there was no marks assigned to the candidates. Insofar as the petitioner, herein, is concerned, it was stated that the sports certificates of the petitioner were not considered for evaluation as he was charge sheeted and the learned trial Court had not granted any clearance to him in the matter. It was further highlighted in the said written instructions that the candidates appointed under the Meritorious Sports Persons quota were selected on merit basing on their performance in the sports concerned and the validity of their sports certificates. Accordingly, it was stated that the re-evaluation of the case of the petitioner; a Selection Board meeting was required to be re-convened to verify and evaluate his certificates which was also stated to be time consuming. Hence, it was prayed that this Court may grant reasonable time to the respondent authorities for carrying-out the re-verification in respect of the petitioner, herein, by the selection Board.

15. In view of the said developments taking place in the matter and the disclosure as made in the written instructions, dated 10.12.2024, issued by the Respondent No. 3 and placed before this Court by Mr. Perme, learned standing counsel, Department of Power; this Court is of the considered view that the present writ petition need not be detained further and can be disposed of at this stage itself.

16. Accordingly, appreciating that the case of the petitioner, herein, was not so considered in the review selection so held in the matter only on account of the fact that the criminal proceeding against him was pending before the learned trial Court at the relevant point of time, and also appreciating the fact that the supplementary charge sheet so laid by the Special Investigation Team(SIT) before the learned trial Court including therein, the petitioner,

herein, as an accused, having already been set aside and quashed by this Court vide order, dated 04.09.2024, passed in Crl.Pet. No. 126/2024; it is to be held that there exists no bar for consideration of the case of the petitioner for recruitment against the post of Junior Engineer(E) so advertised vide the Advertisement, dated 12.06.2020.

17. Accordingly, the respondent authorities, more particularly, Respondent No. 3, is hereby directed to convene a meeting of the selection Board for carrying-out a selection and consider the case of the petitioner, herein, for recruitment against the posts of Junior Engineer(E) so advertised vide the Advertisement, dated 12.06.2020.

18. Such consideration be so made in respect of the petitioner against the post contended in the present proceeding, to be lying vacant on account of the fact that one of the selected candidates, namely, Shri Dubom Lego, had not joined his service in pursuance of his selection and appointment made in the matter.

19. The above process be initiated and concluded by the respondent authorities within a period of 2(two) months from the date of receipt of a certified copy of this order.

20. The outcome of the said selection process, as directed, hereinabove, be communicated to the petitioner, herein. In the event, the petitioner is found to be eligible for being appointed against the posts of Junior Engineer(E) so advertised vide the Advertisement, dated 12.06.2020, vacant post being also contended to be available as on date; the respondent authorities, more

particularly, the Respondent No. 3, shall issue to the petitioner, an appointment order, in this connection and facilitate his joining against the said post.

21. With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant