

GAHC030003282023



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

Case No. : WP(C)/72/2023

Shri Lalnuntluanga, S/o R. Sangkunga[L], R/o Khatla, Aizawl.

..... Petitioner

-Versus-

1. The Secretary to the Government of Mizoram, Cooperation Department.
2. The Registrar, Cooperative Societies, Mizoram, Aizawl.
3. MIZOFED Ltd. represented by its Chairman, Aizawl, Mizoram.
4. Managing Director, MIZOFED Ltd. Aizawl, Mizoram.
5. Smt. J. B. Ngongia, D/o Vytuchho, R/o Khatla Sec.V(5), Near MLA Hostel, Aizawl.

..... Respondents

By Advocates:

For the petitioner : Mr. F. Lalenglina

For the respondents : Ms. Lalnunhlui, Government Advocate
Mr. B. Lalramenga
Mr. Victor L. Ralte

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 27.08.2024
Date of Judgment : 27.08.2024

Judgment & order(ORAL)

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Heard Mr. F. Lalenglina, learned counsel for the appellant. Also heard Ms. Lalnunhlui, learned Government Advocate, appearing on behalf of respondents No. 1 & 2; Mr. B. Lalramenga, learned counsel, appearing

on behalf of respondents No. 3 & 4; and Mr. Victor L. Ralte, learned counsel, appearing on behalf of respondent No. 5.

2. The challenge in the present proceeding, is to an order, dated 03.04.2023, promoting the respondent No. 5, herein, to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), w.e.f. 01.05.2023.

3. The petitioner and the respondent No. 5, herein, were recruited as Manager Grade-III of Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), on 01.03.2000. Thereafter, the service of the petitioner, herein, was confirmed on completion of his probationary period vide order, dated 20.11.2007. The petitioner as well as the respondent No. 5, were, thereafter, considered for promotion to the post of Deputy Manager, in MIZOFED and on such consideration, they being found to be so eligible; they were promoted as Deputy Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), vide order, dated 14.06.2011. For the purpose of such promotion; the petitioner was placed above the respondent No. 5, on merits.

4. The next promotional avenue for the incumbents in the post of Deputy Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), happens to be the post of Manager. The incumbent in the post of Manager on being so promoted to the next higher post of Deputy General Manager; a vacancy having arisen, the authorities of Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), initiated a process for filling-up the vacant post of Manager, by way of promotion. In the course of such consideration; the

respondent No. 5, herein, was issued with a notice, dated 30.03.2023, requiring her to appear before the Selection Committee for an interview on 03.04.2023. The petitioner although was placed above the respondent No. 5, on merits, in the cadre of Deputy Manager; he was not issued with any such notice requiring him to also appear for the interview slated for promotion to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED).

5. In pursuance of the recommendations made by the Selection Committee; the competent authority, vide order, dated 03.04.2023; promoted the respondent No. 5, herein, to the post of Manager w.e.f. 01.05.2023.

6. The petitioner, on coming to learn about such promotion being effected in the case of his junior i.e. the respondent No. 5, herein; proceeded to submit a representation in the matter on 06.04.2023, by contending therein, that he was deprived of his due promotion and the respondent No. 5, herein, who was admittedly junior to him ought not to have given the such promotion, without a selection process being undertaken and accordingly, prayed that he also be granted promotion to the post of Manager. The said representation having not been considered by the respondent authorities; the petitioner has approached this Court by way of instituting the present proceeding.

7. Mr. Lalenglina, learned counsel for the petitioner, by reiterating the facts narrated hereinabove; has referred to the provisions of the Mizoram State Co-operative Marketing & Consumers Federation Ltd.(MIZOFED), Staff Service (Amendment) Rules, 2015, wherein, in Rule 6 thereof; the

procedure to be followed for promotion from the lower cadre to the next higher cadre, has been set-out. The learned counsel has submitted that the provisions of Rule 6 of the said Rules of 2015, was not followed in the matter and the case of the petitioner, admittedly, was not so considered, in the manner as required under the provisions of Rule 6 of the Rules of 2015, and accordingly, the petitioner was denied of his fundamental right for being so considered in a fair manner for promotion to the post of Manager.

8. Mr. Lalengliana, learned counsel, has further submitted that during the process of selection for promotion to the post of Manager, MIZOFED, against the petitioner; there was, neither, any criminal case pending, nor, any departmental proceeding was initiated against him and accordingly, there existed no bar in considering the case of the petitioner, herein, also for promotion to the post of Manager in MIZOFED by applying the Rule 6 of the said Rules of 2015.

9. In the above premises; Mr. Lalengliana, learned counsel for the petitioner, has submitted that the promotion so effected in the case of respondent No. 5, herein, who, admittedly, is junior to the petitioner, in the cadre of Deputy Manager, requires an interference from this Court, with a further direction for a review selection in the matter, strictly, in terms of the provisions of Rule 6 of the Mizoram State Co-operative Marketing & Consumers Federation Ltd.(MIZOFED), Staff Service (Amendment) Rules, 2015.

10. Per contra, Mr. Lalramenga, learned counsel appearing for respondents No. 3 & 4; has submitted that on account of certain

allegations existing against the petitioner, herein, of having committed huge POL calibration shortage(stock shortage) while he was posted as the Manager of Aizawl Retail Outlet of the Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED); he was held to be ineligible for being considered for promotion to the post of Manager. The learned counsel has further submitted that although in the 157th Meeting of the Board of Directors of Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED) held on 23.09.2021; the issue pertaining to the huge POL calibration shortage(stock shortage), was deliberated upon and condoned by the Board of Directors; the Registrar of the Cooperative Societies, Mizoram, had not approved such resolution adopted by the Board of Directors in the above-noted meeting. Accordingly, it is contended that the said allegations continue to exist against the petitioner, herein.

11. Mr. Lalramenga, learned counsel for respondents No. 3 & 4, accordingly, by referring to Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service(Amendment) Rules, 2020; has submitted that the promotion from a lower grade to a higher grade, shall be considered only from a list of suitable members of the service, as prepared by the Selection Committee basing on the parameters as set-out in Rule 6(a) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service(Amendment) Rules, 2020. The past performance record being one of the parameters so required to be noticed before a recommendation can be made in respect of a member of the service for promotion to the next higher post, the Selection Committee on consideration of the allegations existing in respect of the petitioner, herein, with regard to the huge POL

calibration shortage(stock shortage); had held that he was not eligible to be considered for such promotion and accordingly, he was not called for the interview, in question, for promotion to the post of Manager. The respondent No. 5, who did not suffer from any deficiency, was accordingly considered for promotion in terms of the provisions of Rule 6(a) of the said Rules of 2020, and she, on being recommended by the Selection Committee; came to be promoted to the post of Manager vide issuance of the order, dated 03.04.2023.

12. Mr. Lalramenga, learned counsel for respondents No. 3 & 4, has further submitted that no prejudice was caused to the petitioner's service interest in not calling him for the interview scheduled for promotion to the post of Manager, inasmuch as, the petitioner, on account of his past performance record, was clearly ineligible for being so considered for promotion to the post of Manager and accordingly, the learned counsel for respondents No. 3 & 4, has submitted that the promotion of respondent No. 5, herein, would not call for any interference.

13. Mr. Ralte, learned counsel for respondent No. 5, has adopted the arguments advanced by Mr. Lalramenga, learned counsel for the respondents No. 3 & 4. The learned counsel, however, has submitted that no *mala fide* has been alleged by the petitioner against any of the authorities with regard to the promotion so effected in respect of the respondent No. 5, herein. The respondent No. 5 having been so promoted upon due consideration of her merit, in terms of the provisions of the Rules holding the field; the same does not suffer from any irregularity and/or illegality.

14. It is submitted by Mr. Ralte, learned counsel for respondent No. 5, that the petitioner on account of his past service having been rendered ineligible for being considered for further promotion to the post of Manager and as the respondent No. 5, herein, having been so considered strictly in accordance with the provisions of Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020; the fact that the petitioner was senior to the respondent No. 5, herein, in the post of Deputy Manager, loses its significance inasmuch as, the promotion of the respondent No. 5 to the post of Manager, was so effected upon assessment of her merits by the duly constituted Selection Committee.

15. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

16. In the case on hand; the Rules holding the field have been so referred in the writ petition by the petitioner, to be the "Mizoram State Co-operative Marketing & Consumers Federation Ltd.(MIZOFED), Staff Service (Amendment) Rules, 2015", while the respondents No. 3 & 4, in their affidavit, have referred the said Rules to be the "Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service (Amendment) Rules, 2020". However, it is to be noted that the provisions of Rule 6, in both the Rules, is the same.

17. This Court would proceed in the matter by reckoning the said Rules governing the field to be the "Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service(Amendment)

Rules, 2020".

18. The petitioner, herein, and the respondent No. 5, herein, were promoted, on consideration of their respective merits, to the post of Deputy Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), vide the order, dated 14.06.2011. In the said order, dated 14.06.2011; it is the petitioner, herein, who is placed above the respondent No. 5, on merits. The said inter-se seniority position is also reflected in a gradation list so published by the respondent authorities for the incumbents in the cadre of Deputy Manager, on 14.05.2018, wherein, the petitioner is placed above the respondent No. 5. The fact that the petitioner is senior to the cadre of respondent No. 5 in the cadre of Deputy Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED); accordingly, is not in dispute.

19. It is seen that the manner and method for promotion to various cadres of the grades of the service is governed by the provisions of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020. Rule 6 of the said Rules of 2020, lays down the procedure required to be followed for effecting such promotion. Further, the said Rules of 2020, mandates that the selection would be so made by application of the criteria of "merit-cum-seniority" and the merit is to be so assessed basing on the parameters set-out therein.

20. The provisions of Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service(Amendment)

Rules, 2020, being relevant, is extracted hereinbelow:

“6. METHOD OF PROMOTION:

(a) The promotion from one lower Grade shall be made from a list of suitable members of service as prepared by the selection Committee from time to time and such selection shall be made on the basis of merit cum seniority. Merit should be prioritized as follows:

- (i) Promotion shall be need base, business development requirement and not on vacancies alone.***
- (ii) Caliber of person that may be gauged through education, training, and personal interview.***
- (iii) Written examination may be held for the post of Managerial Service and above as decided by the Board from time to time.***
- (iv) Past performance record.***

In case of equal score amongst the candidates, seniority shall be the deciding factor. Seniority shall be counted from the date of joining the grade, the incumbent is holding.”

21. A perusal of the provisions of Rule 6(a) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service(Amendment) Rules, 2020, would go to reveal that the promotion from lower grade, shall be made from the list of suitable members of the service as prepared by the Selection Committee from time to time by application of the criteria of “merit-cum-seniority”. The said Rules further provides that the merit of the candidates so appearing in the selection process, is to be so determined basing on the parameters set-out therein and “past performance record” is one of such parameters, so mandated.

22. The provisions of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020, also mandates that the caliber of a person being so

considered for promotion is to be gauged through education, training and personal interview. In other words, the Selection Committee in terms of the provisions of the Rule 6 of the said Rules of 2020, is required to prepare a list of candidates "on merit" after factoring in the parameters as set-out in the provisions of the said Rule. After noticing the provisions of Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020; this Court would now consider as to the manner in which the respondent No. 5, herein, was so promoted to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED).

23. A brief reference is also called to made to an earlier promotional exercise so carried-out for recruitment against the post of Manager in the year 2022. The Board of Directors having resolved to carry-out a promotional exercise with regard to its employees in the matter, in its 157th Board of Directors Meeting held on 23.09.2021; the Selection Committee had undertaken an exercise for promotion to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED) in the year 2022. In terms of the selection made; in addition to the cases of the petitioner and the respondent No. 5, being considered; the case of one H. Lalringthanga was also considered. On assessment of the merits of the candidates appearing before the Selection Committee for promotion to the post of Manager; said H. Lalringthanga, was placed at Serial No. 1 on merits with 34 marks, while the petitioner and respondent No. 5, herein, were placed at Serial No. 2 & 3, with 29.5 and 28.5 marks respectively. Basing on the said recommendations as made in the matter; said H. Lalringthanga came to be promoted to the post of Manager, vide order, dated 03.03.2022.

24. Thereafter, the authorities of MIZOFED, in the year 2023, having decided to initiate a process for filling up various vacant posts in the service; the selection involved, was required to be so carried-out by the constituted Selection Committee.

25. It is seen from the materials brought on record that the incumbent in one of the posts of Manager, viz. Smt. Zoramthangi, on consideration of her case, was recommended for promotion to the post of Deputy General Manager and subsequently, so promoted and accordingly, a further vacancy had arisen in the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED). Considering the need for filling-up of the said post of Manager so falling vacant on the promotion of the incumbent therein; the constituted Selection Committee in its meeting held on 28.03.2023, proceeded to decide to fill-up the said post of Manager.

26. Accordingly, in terms of the decisions so arrived at and the respondent No. 5, herein, having been so found to be eligible for promotion to the post of Manager; the Selection Committee had required her to appear before it for an interview which was slated on 03.04.2023. In terms of the decision of the Selection Committee in its meeting held on 28.03.2023; the Managing Director of the Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), proceeded vide the notice, dated 30.03.2023, to require the respondent No. 5 to appear before the Selection Committee for an interview for promotion to the post of Manager scheduled on 03.04.2023. The respondent No. 5, accordingly, appeared for the said interview on 03.04.2023, and thereafter, basing on the recommendations made in her favour by the duly constituted

Selection Committee; the Managing Director, Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED), vide order, dated 03.04.2023, proceeded to promote the respondent No. 5, herein, to the post of Manager w.e.f. 01.05.2023. The petitioner although was admittedly senior to the respondent No. 5 in the grade of Deputy Manager, he was not called for the interview so scheduled on 03.04.2023, and it was only the respondent No. 5, herein, who was called for the said interview.

27. The respondents No. 3 & 4 in their affidavit, have contended that the constituted Selection Committee, on examination of the past performance record of the petitioner in terms of the provisions of Rule 6(a) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service (Amendment) Rules, 2020, having found that against the petitioner, there continued to exist allegations of huge POL calibration shortage(stock shortage) during his tenure as the Manager of Aizawl Retail Outlet; proceeded to hold the petitioner, herein, to be ineligible for being so considered for promotion to the post of Manager and accordingly, limited the consideration to the case of the respondent No. 5, herein.

28. The provisions of Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service(Amendment) Rules, 2020, has been noticed hereinabove. The said Rules do not mandate a process of short-listing of candidates in the zone of consideration before subjecting them to the actual process of selection. The provisions of the said Rules mandates that the Selection Committee is required to consider the cases of all eligible members in the zone of

consideration, assess their merits basing on the parameters set-out therein and thereafter, prepare a list of suitable members of the service who were found to be so eligible for promotion to the next higher grade than that held by them at the relevant point of time. The language employed in Rule 6 not having empowered the Selection Committee to short-list candidates for the actual selection process as contemplated therein; the petitioner, herein, could not have been excluded from the purview of the said selection process.

29. The contentions of respondents No. 3 & 4 that the provisions of Rule 6(a)(iv) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service(Amendment) Rules, 2020, having mandated that the assessment of merit should also amongst other parameters; be so based on the parameter of "past performance record" and accordingly, the Selection Committee had committed no error in holding the petitioner on the basis of his past performance record, to be ineligible for being considered for promotion to the post of Manager and accordingly, excluding him from the purview of the selection so held, no error was committed by the respondent authorities in the matter.

30. The said contention of the respondents No. 3 & 4 is clearly unacceptable, inasmuch as, the "past performance record" requisite to be so considered for assessment of the merit of a candidate appearing before the selection process, is just one of the parameters so mandated for assessment of the merit of the candidates appearing before it. The language as employed in Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020, would go to show that the Selection

Committee is required to consider the cases of all incumbents in the feeder cadre satisfying the residential as well as the educational qualifications mandated for the promotional post under consideration and upon considering all such candidates before it, by applying the parameters so set-out in Rule 6(a) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service (Amendment) Rules, 2020; prepare a list of suitable candidates on merits.

31. In the case on hand; the said process, admittedly, was not carried-out by the Selection Committee and accordingly, the selection so held leading to the promotion of the respondent No. 5, herein, to the post of Manager, has to be held to be one so carried-out in clear violation of the mandatory provisions of Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service (Amendment) Rules, 2020.

32. Having reached the above conclusion; this Court would now consider the contention raised by the respondents that the Selection Committee had proceeded to hold the petitioner, herein, to be ineligible basing on the allegations so existing against him with regard to the huge POL calibration shortage(stock shortage) during his tenure as Manager of Aizawl Retail Outlet. It is seen from the records that the said allegations pertain to a period from the year 2017. However, it is to be noticed that basing on the said allegations, stated to exist against the petitioner, no departmental proceeding came to be instituted against him, till date.

33. As noticed hereinabove; the merits of the petitioner as well as the respondent No. 5 were considered by the duly constituted Selection

Committee for a post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED) in the year 2022. At that relevant point of time; no such plea came to be taken by the respondent authorities in the matter against the petitioner.

34. Be that as it may, it is the settled position of law that right to be considered for promotion, is a fundamental right. Such a right brings within its purview, an effective, purposeful and meaningful consideration. Suitability, or, otherwise of the candidate concerned, however, must be left at the hands of the Departmental Promotion Committee(DPC) but the same has to be determined in terms of the Rules applicable therefor.

35. It is also seen that on the date, the Selection Committee had resolved to fill-up the post of Manager falling vacant on the incumbent therein being promoted to the next higher grade; there was admittedly no departmental proceeding initiated and/or pending against the petitioner, herein.

36. In this connection, the decision of the Hon'ble Supreme Court in the case of ***Union of India & ors. v. K. V. Jankiraman & ors.***, reported in ***(1991) 4 SCC 109***, is to be referred to. The Hon'ble Supreme Court, in its decision, more particularly, in paragraph No. 16, thereof, had concluded as under:

“16. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a charge-sheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after

the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/charge-sheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily, it should not take much time to collect the relevant evidence and finalize the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. It was then contended on behalf of the authorities that conclusions Nos. 1 and 4 of the Full Bench of the Tribunal are inconsistent with each other. Those conclusions are as follows: (ATC p.196, para 39)

“(1) consideration for promotion, selection grade, crossing the efficiency bar or higher scale of pay cannot be withheld merely on the ground of pendency of a disciplinary or criminal proceedings against an official;

(2) * * * * *

(3) * * * * *

(4) the sealed cover procedure can be resorted to only after a charge memo is served on the concerned official or the charge-sheet filed before the criminal court and not before;”

37. In the present proceeding, there being no departmental and/or any criminal proceeding initiated as understood, by the Hon’ble Supreme Court in its decision in the case of *K. V. Jankiraman*(supra), against the petitioner, herein; he could not have been denied an opportunity to have his case so considered in the manner as laid-out in Rule 6 of the Mizoram State Cooperative Marketing & Consumers' Federation Limited (MIZOFED) Staff Service(Amendment) Rules, 2020, for promotion to the post of Manager, only on the basis of certain allegations existing against him.

38. The case of the petitioner having been not so considered and the reasons so assigned for the purpose, having already been held by this Court to be unsustainable; the Court is of the considered view that the fundamental right of the petitioner, in this connection, came to be violated, on he being denied an opportunity to have his case considered for promotion to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED).

39. In view of the above conclusions; the promotion of respondent No. 5, herein, as effected, vide the order, dated 03.04.2023, stands set aside along with the selection process preceding the issuance of the said order of promotion.

40. The promotion of respondent No. 5 having been so set aside; this Court passes the following directions:

(i). The Selection Committee shall now carry-out a review selection in the matter and consider the cases of all eligible incumbents in the grade of Deputy Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED) including the petitioner and the respondent No. 5, herein; for promotion against the available vacant post of Manager, strictly, in accordance with the provisions of Rule 6(a) of the Mizoram State Cooperative Marketing & Consumers' Federation Limited(MIZOFED) Staff Service (Amendment) Rules, 2020.

(ii). Upon assessing the merits of the candidates appearing before it; the constituted Selection Committee shall recommend the name

of the candidate found suitable by it, on merit, and thereafter, such candidate, so found suitable, shall be so promoted by the respondent No. 4, herein, to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd. (MIZOFED). In the event, any two or more candidates in the selection process, is to found to be placed equal on merits; the Selection Committee shall recommend the senior-most amongst them, for being promoted as Manager, MIZOFED.

(iii). The exercise now required to be carried-out for implementation of the directions passed hereinabove, shall be initiated by the respondent No. 4 and concluded within a period of 2(two) months, with effect from the date of receipt of a certified copy of this order, with the issuance of a fresh order of promotion in favour of the candidate so recommended by the Selection Committee for promotion to the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED).

(iv). It is provided that till a fresh order of promotion is so issued in terms of the directions passed hereinabove; the respondent No. 5, herein, shall be permitted to continue against the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd. (MIZOFED), on *ad hoc* basis.

(v). It is further provided that although this Court had interfered with the promotion of the respondent No. 5, herein, as Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd. (MIZOFED); the pay and allowances as drawn by the respondent No.

5 against the post of Manager, shall not be liable to be recovered from her. However, the respondent No. 5 shall not be given any added advantage in the selection process, now required to be so carried-out in terms of the directions passed by this Court, hereinabove, for having held the post of Manager in Mizoram State Co-operative Marketing & Consumers' Federation Ltd.(MIZOFED).

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

JUDGE

Comparing Assistant