

GAHC030004662023



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

Case No. : WP(C)/111/2023

Sh. Zothankima and 2 Ors.
S/o Lalrinawma
R/o Chanmari West, Aizawl

2: Sh. Lallawmkima

3: Smt. Malsawmtluangi Sail

VERSUS

The State of Mizoram R/b the Chief Secretary, Govt. of Mizoram and 6 Ors.
Aizawl, Mizoram

2:The Secretary to the Govt. of Mizoram
UD and PA Dept.

3:The Secretary to the Govt. of Mizoram
DP and AR

4:The Director
UD and PA Dept.
Govt. of Mizoram

5:The Aizawl Municipal Corporation R/b the Municipal Commissioner
AMC

6:The Municipal Commissioner
Aizawl Municipal Corporation

7:The Mizoram Public Service Commission R/b the Chairma

Advocate for the Petitioner : Mr A.R. Malhotra

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 - 4

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

26.09.2024

Heard Mr. A R Malhotra, learned counsel for the petitioners, Ms. H Lalmalsawmi, learned Government Advocate for the State respondent Nos. 1 to 4, Mr. Zoramchhana, learned Standing Counsel, AMC for respondent Nos. 5 & 6 and Mr. J C Lalnunsanga for respondent No. 7.

[2.] By filing this writ petition, the projected grievance of the petitioners is that the proposal for filling up of the posts of Assistant Engineer, Assistant Architect and Assistant Town Planner has not received a positive response from the respondent authorities concerned to finalize the same despite the fact that they are eligible to be considered for promotion to the said posts against the existing vacancies.

[3.] It is the case of the petitioners that they were appointed sometime in the year 2007 & 2008 under the Aizawl Development Authority (ADA) as Planning Assistant or Junior Engineer. Subsequently, ADA was dissolved in the year 2015

and the petitioners came to be absorbed under the Aizawl Municipal Corporation (AMC) in the year 2020. The petitioner Nos. 1 & 3 are in the post of Planning Assistant while the petitioner No. 2 is in the post of Junior Engineer. According to them, three vacancies have arisen in the post of Assistant Engineer, two vacancies each in the post of Assistant Architect and Assistant Town Planner. According to the Mizoram Municipal Common Cadre Service Rules, 2018 (Rules of 2019), they are eligible to be considered for promotion to the said posts. However, despite the AMC authorities having submitted the proposal for filling up the vacancies to the Government through the Director, UD&PA Department, no progress has been made to consider them for promotion and for which reason, they are before this Court.

[4.] Mr. A R Malhotra, learned counsel for the petitioners submits that after the filing of the writ petition, the respondents have filed their counter affidavit and it has come to light that the respondent MPSC had rejected the agenda papers to fill up the posts concerned since the same was not prepared in accordance with the Rules of 2019. He submits that under the initiative of the AMC, the petitioners had agreed with the suggestions made for filling up of the vacancies in a particular manner and they also gave an undertaking that they will not claim their promotion beyond what was agreed to and undertaken by

them. However, the said arrangement according to the MPSC was not in conformity with the Rules of 2019 and hence, they had rejected the agenda papers.

[5.] The learned counsel submits that the limited prayer of the petitioners at this stage is that the respondent authorities concerned may be directed to re-submit the agenda papers in conformity with the Rules of 2019, which is also the stand of the MPSC in their affidavit-in-opposition more particularly paragraph No. 21 of their counter affidavit.

[6.] Mr. J C Lalnunsanga, learned counsel for the MPSC submits that there will be no difficulty on the part of the MPSC to consider the agenda papers for promotion to the post concerned if the same is submitted in terms of the relevant provisions of the Rules of 2019. Similarly, Mr. Zoramchhana, learned Standing Counsel for the AMC also submits that the AMC has no objection if the agenda papers are re-submitted in terms of the Rules of 2019.

[7.] Ms. H Lalmalsawmi, learned Government Advocate appearing for respondent Nos. 1 to 4, by drawing the attention of this Court to the counter affidavit filed by the State respondents, submits that during the pendency of the writ petition there are now other officers in the AMC who have become eligible for consideration for promotion to the posts in question and therefore all

persons eligible should be taken into consideration for promotion. She submits that as on today, there are two vacancies each in the post of Assistant Town Planner and Assistant Architect and four vacancies in the post of Assistant Engineer, which have been cleared to be filled up by DP&AR as well as the Finance Department.

[8.] Having regard to the submissions made by the learned counsels for the rival parties, there appears to be no difficulty in disposing of this case by directing the respondent authorities concerned to prepare fresh agenda papers in terms of the relevant provisions of the Rules of 2019 and to submit the same to the MPSC for considering the promotion of the eligible candidates to the posts in question.

[9.] In view of above, the writ petition is disposed of with a direction to the parent organization i.e. AMC to submit a proposal for preparation of agenda papers to the UD&PA Department within a period of 1 (one) month from the date of receipt of a certified copy of this order, whereafter the UD&PA upon receipt of the same shall also do the needful and within one (1) month and send the same to the DP&AR for onward submission to the MPSC. The DP&AR shall also undertake all the necessary requirements within a period of one (1) month. The MPSC, on receipt of the agenda papers shall expeditiously examine and

finalize the same preferably within a period of 6 (six) weeks from the date of receipt of the agenda papers.

[10.] With the above observation and direction, the Writ Petition stands disposed of as allowed.

JUDGE

Comparing Assistant