

GAHC020003812023



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

Case No. : WP(C)/156/2023

SMTI. J. KHETOHOLI YEPTHOMI AND 5 ORS
LEGAL-CUM-PROBATION OFFICER,
STATE CHILD PROTECTION SOCIETY,
DEPARTMENT OF SOCIAL WELFARE,
KOHIMA, NAGALAND

2: SHRI. MEGONEITUO KIELIENU

LEGAL-CUM-PROBATION OFFICER

STATE CHILD PROTECTION SOCIETY

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAND

3: SMTI. MOAJUNGLA

LEGAL-CUM-PROBATION OFFICER

STATE CHILD PROTECTION SOCIETY

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAND

4: SHRI. THEKRUSOLIE VAKHA

LEGAL-CUM-PROBATION OFFICER

STATE CHILD PROTECTION SOCIETY

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAND

5: SHRI. NEIKHROTE PURO

PROTECTION OFFICER INSTITUTIONAL CARE
STATE CHILD PROTECTION SOCIETY
DEPARTMENT OF SOCIAL WELFARE
NAGALAND
KOHIMA

6: SHRI. VEZOKHO NYEKHA

LEGAL-CUM-PROBATION OFFICER

STATE CHILD PROTECTION SOCIETY

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAN

VERSUS

THE STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF NAGALAND,
KOHIMA, NAGALAND

2:THE UNION OF INDIA

REPRESENTED BY THE JOINT SECRETARY

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

SHASTRI BHAWAN

NEW DELHI- 110001

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAND

4:THE DIRECTOR

DIRECTORATE OF SOCIAL WELFARE

KOHIMA
NAGALAND

5:THE STATE MISSION DIRECTOR

MISSION VATSALYA

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAND

6:THE MEMBER SECRETARY

STATE CHILD PROTECTION SOCIETY

MISSION VATSALYA

DEPARTMENT OF SOCIAL WELFARE

KOHIMA
NAGALAN

For the Petitioner(s) : Mr. Joshua Sheqi, Advocate

: Ms. Lily Swu, Advocate

For the Respondent(s) : Ms. Apila Sangtam, Standing Counsel

Date of Hearing : **07.06.2024**

Date of Judgment : **07.06.2024**

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

The Petitioners who are 6 (six) in numbers have approached this Court by filing the present writ petition challenging the advertisement dated 14.07.2023 issued by the Department of Social Welfare,

Nagaland, Kohima whereby a selection process was initiated from amongst the qualified candidates on contractual basis under the Mission Vatsalya Scheme and also seeking a direction that the Petitioners be allowed to apply for those posts.

2. From a perusal of the writ petition, it reveals that the sole challenge made to the advertisement dated 14.07.2023 is in respect to Clause-4 of the said advertisement wherein it has been mentioned that the Applicant should be 21-35 years of age and there shall be age relaxation for in-service candidates as per the existing norms of the State Government. It is the case of the Petitioners herein that similar clauses were not there in the earlier advertisements and by incorporating said clauses thereby limiting the age to only 21-35 years of age would deprive the Petitioners from applying to the posts as well as also would not be in the interest of the scheme for which the appointments have been sought to be made.

3. Mr. Joshua Sheqi, the learned counsel appearing on behalf of the Petitioners submits that posts like District Child Protection Officer (DCPO), Protection Officer (Institutional Care), Legal cum Probation Officer (LCPO) are posts which ought to be meant for persons with experience and as such the advertisement whereby the applicants' age have been constricted within 21 to 35 years of age would not be in the interest of the said scheme.

4. On the other hand, Ms. Apila Sangtam, the learned Standing counsel appearing on behalf of the Respondent Nos. 3, 4, 5 and 6 submits that the age limit have been put in the advertisement in

accordance with the Office Memorandum of the Government of Nagaland dated 30.11.2007 which categorically stipulates that the age limit would be from 21 to 35 years in respect of Grade-I, Grade-II and Grade-III. She further submitted that as per the said Office Memorandum, age concession for serving Government employees would be allowed, the equal number of years they are in service subject to a maximum of 5 years. The learned Standing counsel also submitted that there is also an upper age limit for Physically Handicapped persons which is relaxable by another 10 years. It is therefore the submission of the learned Standing counsel for the Respondent Nos. 3 to 6 that there is no infirmity in the said advertisement and more so in respect to Clause-4 of the said advertisement. The learned Standing counsel further during the course of the hearing drew the attention of this Court to the detailed eligibility criteria, qualification and work experience requisite for each post which is available in the Department's website and placed before this Court the Mission Vatsalya Guidelines. The learned Standing counsel submitted that a perusal of Clause 2.4(B) would show that the Government of India have endorsed all administrative decisions pertaining to the implementation of the Mission Vatsalya and related fund disbursement and maintaining oversight and supervision on implementation of the Mission in all districts of the State. The learned Standing counsel therefore submits that in that view of the matter, the Respondents herein have taken into account the Office Memorandum dated 30.11.2007 and thereby have put the age limit in the advertisement. The learned Standing counsel further submitted that

the Petitioners herein are otherwise also not qualified inasmuch as for the post of District Child Protection Officer, the eligibility criteria is Post Graduate Degree in various disciplines including Law. In the instant case, the Petitioners herein are only Law Graduates. The learned Standing counsel further submitted that in absence of a challenge to those guidelines, the instant writ petition therefore cannot be maintained at the instance of the Petitioners.

5. Upon hearing the learned counsels for the parties, this Court has put a specific query upon the learned counsel appearing on behalf of the Petitioners as to which post the Petitioners would like to apply in pursuance to the advertisement. To the specific query, the learned counsel for the Petitioners submitted that the Petitioner would like to apply to those posts where the Petitioners are eligible. This Court taking note of the said evasive reply, had taken note of the representation so submitted by the Petitioners on 20.07.2023 which is a part of the writ petition. From a perusal thereof, it reveals that the Petitioners herein are interested to the post of the District Child Protection Officer (DCPO).

6. I have heard the learned counsels for the parties and have given due consideration to their respective submissions.

7. From a perusal of the guidelines of Mission Vatsalya, there is no mention as regards the age limit. Be that as it may, from a perusal of Clause 2.4(B), the responsibility have been given to the State Child Protection Society to take steps for implementation of the said Scheme being Mission Vatsalya. This court has also taken note of the Office

Memorandum dated 30.11.2007 wherein the Government of Nagaland in the Department of Personnel and Administrative Reforms had fixed the upper and the lower age limits to enter into the Government services for different categories. It appears that for Grade-I, Grade-II and Grade-III, the age limit is 21-35 years and in respect to Grade-IV, it is 18-35 years. It is further seen that for General category candidates, the upper age limit would be 30 years and age concession for serving Government employees would be allowed, the equal number of years they are in service subject to a maximum of 5 years. It is also seen that the upper age limit for Physically Handicapped persons would be relaxable by another 10 years. It is the specific case of the Respondent Nos. 3 to 6 that basing upon the said Office Memorandum, the Clause-4 have been inserted in the advertisement. This Court is of the opinion that the said cannot be said to be in any manner unreasonable or unfair. Under such circumstances, this Court in exercise of the powers of judicial review cannot sit upon the said decision of the Authority.

8. This Court further takes note of that the Petitioners herein are interested to apply for the post of District Child Protection Officer wherein it has been categorically mandated that the educational qualification should be Post-Graduate in various disciplines including Law. Though Mr. Joshua Sheqi, the learned counsel for the Petitioners submitted that LLB Degree is considered to be a Post-Graduate Degree but this Court taking into account that in respect of other posts, for example Protection Officer (Institutional Care), the guidelines specifically stipulates graduate in various disciplines including Law, the

said submission is misconceived. In the opinion of this Court, the guidelines therefore envisages that the eligibility criteria for the post of District Child Protection Officer would be Post-Graduate in various disciplines including Law. Admittedly, the Petitioners herein are only Law Graduates and as such the Petitioners would not be qualified even if permitted to apply to the posts of District Child Protection Officer.

9. Consequently, in view of the above, this Court finds no merit in the instant writ petition for which the instant petition stands dismissed.

10. Interim order passed if any, stands vacated.

JUDGE

Comparing Assistant