REPORTABLE

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 1110 of 2022

Shri Chintu Wahengbam, aged about 30 years, S/o W. Sailesh Kumar Singh, Nongmeibung Chakpram Leirak, P.O. & P.S. Porompat, Imphal East District, Manipur.

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Commissioner (Home), Government of Manipur, office at Old Secretariat Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Director General of Police, Manipur, Office PHQ, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

.....Official Respondent/s

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioners	::	Mr. Th. Khagemba, Advocate
For the respondents	::	Mr. Shyam Sharma, G.A.
Date of Hearing	::	14.06.2024/17.12.2024/26.05.2025
Date of Judgment and Order	::	**16.06.2025**

JUDGMENT & ORDER (CAV)

[1] Heard Mr. Th. Khagemba, learned counsel for the petitioner and Mr. Shyam Sharma, learned G.A. for the State respondents.

[2] The present writ petition has been filed praying for issuance of a writ in the nature of certiorari/mandamus or any other appropriate writ or order directing the respondents to quash and set aside the impugned order dated 07.10.2022 issued by the Police Department Manipur and with a prayer for considering appointment of the petitioner to the post of Asst. Sub-Inspector of Police (Male/Civil) in Police Department Manipur as done in the case of 4 (four) other similarly situated candidate in compliance of the common order dated 16.09.2021 passed by this Court in WP(C) Nos. 300 of 2016 & 660 of 2020. In respect of the petitioner, this Court also passed an order dated 29.09.2022 in WP(C) No. 824 of 2022 for consideration of his representation for appointment as ASI in Manipur Police.

[3] The Director General of Police, Manipur issued a notification dated 24.04.2010 for direct recruitment of 112 post of Assistant Sub-Inspector (ASI) of Police (Male/Civil) and the requisite qualification is PUC or intermediate or equivalent. Accordingly, the petitioner submitted duly filled up form for the post of ASI of Police (Male/Civil) in Police Department, Manipur to the competent authorities. As a part of recruitment process, the Physical Efficiency Test (PET) was conducted at 2nd MR Ground and the petitioner was declared successful. Thereafter, written test examination was conducted by the Selection Committee and on 25.02.2013, a notification was issued by the Director, Manipur Police Training College (MPTC), Pangei declaring the result of the Written Text. In the said notification, 480 candidates including the petitioner (who is at serial No. 94) was declared successful for appearing for Interview/Viva-Voce Test.

Thereafter, Interview/Viva-Voce Test was held in the year 2013 and vide notification dated 03.03.2014 issued by the Director General of Police, Manipur, the result of the DPC was declared. In the said notification, out of 480 candidates, 315 candidates were recommended for selection to the post of ASI (Male/Civil) in the Police Department and the petitioner's name was not recommended.

[4] However, the said DPC had recommended 203 more candidates than the notified vacancies i.e. 112 vide notification dated 24.04.2010 issued by the Director General of Police and no candidates were kept in the panel/wait list vide notification dated 03.03.2014. Later on, 2 wait lists were prepared i.e. first wait list consist of 32 incumbents and second, consist of 53 incumbents and both the wait list were signed by the Chairman and two members of the DPC. Vide letters dated 06.11.2014 and 17.11.2014 issued by the Joint Secretary (Home), Government of Manipur conveying the Government approval for filling up of 32 post of ASI (Male/Civil) for the upgraded vacancies arose from the first wait list consisting of 32 incumbents and 55 post of ASI (Male/Civil) for the upgraded vacancies arose from the second wait list consisting of 52 incumbents plus 3 other incumbents not listed in the second wait list.

[5] Vide order dated 04.02.2015 issued by the Director General of Police, Manipur, 368 candidates were approved for appointment as ASI (Male/Civil) in the Manipur Police Department. Therefore, it is clear that 53 non-recommended candidates were approved by the Government over the actual recommendation of 315 candidates vide notification dated

03.03.2014. Being aggrieved, the petitioner along with 4 others submitted an application dated 12.03.2014 to the State Public Information Officer/Addl. Secretary (Home), Government of Manipur under Section 6 of the RTI Act for furnishing the certified copy/Xerox copy of the documents. As there was no response for the sought information, the petitioner and others filed an appeal dated 03.05.2014 before the appellate authority under Section 19 of the RTI Act, 2005. However, the authorities neither furnish the sought information nor dispose of the RTI application dated 12.03.2014 and appeal dated 03.05.2014 till date.

[6] As per the Office Memorandum dated 20.12.1995 issued by the Under Secretary, Department of personnel and Administrative Reforms (PD), Government of Manipur, only the names of the persons upto 10% of the vacancies for which the selection process was conducted be considered for waiting list. However, in the present case, the waiting list is more than 10% of the vacancies and as such, the same is violative of the Office Memorandum dated 20.12.1995.

[7] In compliance of the order dated 16.09.2021 in WP(C) Nos. 300 of 2016 & 660 of 2020, 4 candidates including 2 candidates who filed the aforesaid RTI application along with the petitioner herein, were considered for appointment to the post of ASI (Male/Civil). Vide order dated 22.04.2022 issued by the Director General of Police wherein approved for appointment as ASI (Male/Civil) of Police in the Manipur Police Department in respect of 4 candidates who were not recommended by the DPC as successful candidates.

[8] The petitioner submitted a representation dated 01.08.2022 to the Principal Secretary (Home), Government of Manipur and the Director General of Police, Manipur for consideration of appointment to the post of ASI (Male/Civil) in the Manipur Police Department in pursuant to the requisition dated 24.04.2010, as done in the case of other similarly situated candidates. However, the respondents failed to consider the said representation submitted by the petitioner and as such, the petitioner filed a writ petition being WP(C) No. 824 of 2022 before the Hon'ble High Court of Manipur for directing the respondents to consider and dispose of the representation dated 01.08.2022 within a stipulated period of time and the same was disposed of on 29.09.2022 by directing the respondents to consider and dispose the representation submitted by the petitioner within a period of 8 weeks by passing a speaking order.

[9] However, the Police Department vide its impugned order dated 07.10.2022 rejected the said representation submitted by the petitioner on the sole ground that the petitioner failed to obtain the qualifying marks as the petitioner's score was less than the last selected candidates in General Category (UR) i.e. '51' marks. Amongst the 55 ASI waiting list candidates who were also subsequently selected, there are 36 candidates who were kept in the waiting list secured between 50-47 marks in General/OBC category. Furthermore, the marks secured by 4 candidates who were appointed to the post of ASI (Male/Civil) in compliance of the order dated 16.09.2021 in WP(C) Nos. 300 of 2016 & 660 of 2020 are less than 47 marks. The case of these 4 candidates and the present petitioner are similarly situated and the order dated 29.09.2022 in WP(C) No. 824 of

2022 in respect of the present petitioner which is analogous to the order dated 16.09.2021 in WP(C) Nos. 300 of 2016 & 660 of 2020 in respect of the 4 candidates. Hence, it is prayed that the impugned order dated 07.10.2022 be quashed and set aside.

[10] The respondent No.2 filed a short counter affidavit stating that the number of vacancies for the post of Assistant Sub Inspector of Police increased to 317 from the advertised number of 112, after taking into consideration fresh vacancies and new posts created. 55 candidates were placed in waiting list. Later on, 368 candidates including waiting list candidates were appointed as Assistant Sub Inspectors after due approval. It is stated that four candidates namely, (i) Akoijam Tennyson Singh, (ii) Gautam Ayekpam, (iii) Yambem Bipin, & (iv) Sagolsem Poireton Meitei were appointed as Assistant Sub Inspectors in compliance of the order dated 16.09.2021 passed by this Court in WP(C) Nos. 300 of 2016 & 660 of 2020. However, the representation of the petitioner was rejected as he failed to score the minimum qualifying mark in General Category, i.e., '51' marks in the selection process. Respondent No.1 has not filed any separate counter affidavit.

[11] The petitioner filed rejoinder affidavit stating that the above four persons subsequently appointed in terms of the court's order were also included in the list of "NOT QUALIFIED CANDIDATES" along with the petitioner herein and others. All these candidates scored less than 51 marks. Moreover, in the wait list, there were 36 candidates (UR) who scored less than 51 marks, but they were also appointed as Assistant Sub

Inspectors of Police. Comparative marks of the four persons appointed from the list of 'Not Qualified Candidates' and the petitioner are as follows:

NOT QUALIFIED CANDIDATES

Sl. No.	Name	Total Marks
4	Shagolsem Poireton Meitei	42
21	Wahengbam Chintu (petitioner herein)	40
34	Akoijam Tennyson Singh	39
51	Yambem Bipin Singh	40
58	Gautam Ayekpam	40

[12] The stand taken by the respondent No.2 in the counter affidavit is that the petitioner was not considered, as he scored less than the minimum qualifying score of '51' marks for UR candidates and hence could not be appointed as ASI.

[13] Mr. Th. Khagemba, learned counsel for the petitioner has submitted that it is an admitted fact that the petitioner scored 40 marks in total in the recruitment test for the post of Assistant Sub Inspector of Police. He was not recommended by the DPC, but his name was placed in the list of 'NOT QUALIFIED CANDIDATES' along with others who were later on appointed vide order dated 07.10.2022 issued by the office of DGP, Manipur and all these candidates scored less than '51' marks. It is also pointed out that all the 51 candidates in the Waiting List also scored less than '51' marks and 36 candidates from UR category having less than '51' marks, were also appointed. It is vehemently submitted that the stand of

the respondent that the petitioner scored less than 51 marks and hence not eligible for appointment, is without any basis.

[14] Mr. Th. Khagemba, learned counsel for the petitioner relies on the decision in the case of **State of Karnataka v. C. Lalitha: (2006) 2 SCC 747,** where Hon'ble Supreme Court held that similarly situated person should not be treated differently only on the ground that such person did not approach court unlike others who got the relief. Para 29 is reproduced below:

> *"29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently. It is furthermore well settled that the question of seniority should be governed by the rules. It may be true that this Court took notice of the subsequent events, namely, that in the meantime she had also been promoted as Assistant Commissioner which was a Category I post but the direction to create a supernumerary post to adjust her must be held to have been issued only with a view to accommodate her therein as otherwise she might have been reverted and not for the purpose of conferring a benefit to which she was not otherwise entitled to."*

[15] It is pointed out that the stand of the respondent that the four candidates, who were similarly situated with the petitioner, were appointed purportedly in compliance of court's order, is without any substance. Learned counsel for the petitioner draws the attention of this Court to the common order dated 16.09.2021 [Annexure A-10] passed by this Court in WP(C) Nos. 330 of 2016 & 660 of 2020: A. Tennyson & Ors. v. State of Manipur & Ors., wherein this Court only directed the State respondents to consider the representation submitted by these 4 candidates and to pass a

speaking order. It is submitted that there was no direction for outright appointment of these 4 candidates. However, in the order dated 22.04.2022 issued by the respondent, it was mentioned that the appointments were in compliance of this Court's direction. Since the appointments of these persons who scored less than 51 marks, were not directed by this Court, it is urged that the plea of the respondent that the petitioner could not be appointed as he scored less than 51 marks, has no basis and the petitioner is also entitled for appointment on parity with the similarly situated persons.

[16] Mr. Shyam Sharma, learned Govt. Advocate, submits that the case of the petitioner is not similar with those four candidates who have been appointed in terms of Court's order. It is pointed out that there is no order from court in favour of the petitioner except for consideration of his representation and he could not be appointed as he scored less than qualifying marks of 51 in the recruitment test. Even if some persons were appointed contrary to the rule or scheme, the same cannot be extended to the petitioner on the basis of principle of equality. Learned GA emphasises that equality works in positive aspect and the principle cannot resorted to perpetuate illegality. It is submitted that the writ petition be dismissed being devoid of any merit.

Issues to be Decided:

[17] The points of consideration involved in the present case are:

I. Whether the minimum qualifying marks (Cut-off) is fixed as "51" for UR candidates in the recruitment test, as alleged by the respondents?

II. Whether a writ in the nature of mandamus can be extended to the petitioner to confer, the benefits granted to similarly situated persons in contravention of norms, by invoking the principle of equality enshrined in Articles 14 & 16 of the Constitution of India?

III. Whether the petitioner is entitled to any relief in the peculiar facts of the present case?

[18] This Court has minutely examined the case record, the pleadings of the party, the relevant law in this regard and the submissions made at the bar. It is the stand of the respondents that the cut off mark for UR candidates for the post of Assistant Sub Inspector of Police in terms of the advertisement dated 24.04.2010 is 51. Since the petitioner's total mark was only 40 in the test, he could not be considered for appointment in terms of this Court 's order dated 29.09.2022 in WP(C) No. 824 of 2022 (filed by the petitioner herein) directing the respondents to consider his representation dated 01.08.2022 praying for appointment as Assistant Sub Inspector of Police (Civil/Male) on parity with the four similarly situated candidates. It is the specific case of the respondents that the petitioner did not score minimum cut-off mark of '51' fixed for UR candidates, while the appointments of similarly situated four candidates, namely, (i) Akoijam Tennyson Singh, (ii) Gautam Ayekpam, (iii) Yambem Bipin, & (iv) Sagolsem Poireton Meitei were in compliance of this Court's order dated

16.09.2021 [Annexure A-10] WP(C) Nos. 330 of 2016 & 660 of 2020: A. Tennyson & Ors. v. State of Manipur & Ors. However, on perusal of this Court's order dated 16.09.2021, it is crystal clear that the direction was only to consider the representation of those four candidates who were included along with the petitioner in the list of 'Not Qualified Candidates'. There was no specific direction from this Court for appointment of those four persons except for consideration of their representation. Admittedly, all the candidates placed in the category of 'Not Qualified Candidates' scored less than '51' marks in total. In this list, caste category of the candidates is not mentioned, however some of them seem belong to ST category. The category of the four appointed candidates cannot be ascertained from the list. On the other hand, the respondents have not made any specific rebuttal to plea of the petitioner in the rejoinder affidavit that 36 candidates from UR category from Waiting List and subsequently appointed, scored less than '51' marks. In the circumstances, this Court is of the considered view that the cut-off mark for UR candidates for appointment as Assistant Sub Inspector of Police in pursuance of advertisement dated 24.04.2010 cannot be '51' as alleged by the respondents.

Principle of Equality before Law: Whether Positive or Negative:

[19] Now the next question is whether this Court can issue a writ in the nature of mandamus to direct the respondents to appoint the petitioner to the post of Assistant Sub Inspector of Police on parity with the four persons who are similarly situated with him and appointed vide order dated 22.04.2022 [Annexure A-11], purportedly in compliance to the order dated

16.09.2021 passed by this Court in WP(C) Nos. 300 of 2016 & 660 of 2020. The answer to this question depends on the fact whether their appointments were as per rules or not. If the appointment of the similarly situated persons is as per rules after following all formalities, such other persons are also entitled to similar relief by application of the principle of equality as enshrined in Article 14 of the Constitution. On the other hand, if the appointment is contrary to the rules and general accepted norms, similarly situated person will not get the same benefit as the doctrine of equality cannot be stretched to perpetuate illegal things. It is accepted principle of law that two wrongs do not make an illegal act as legal. In other word, the principle of equality before law does not extend to negative to confer a benefit contrary to law.

[20] It will be fruitful if some references are made to the decisions in this regard. In the case of **State of Karnataka v. C. Lalitha, (2006) 2 SCC 747,** Hon'ble Supreme Court held that similarly situated person should not be treated differently only on the ground that such person did not approach court unlike others who got the relief.

[21] In the case of **Chandigarh Admn. v. Jagjit Singh: (1995) 1 SCC 745,** Hon'ble Supreme Court considered the concept of negative equality and held as follows:

> 8. We are of the opinion that the basis or the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such pleas at a little length. *Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be*

the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law — indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law — but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and convenient to examine the entitlement of the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course —barring exceptional situations — would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts

nor can they be elevated to the level of the precedents, as understood in the judicial world. (What is the position in the case of orders passed by authorities in exercise of their quasi-judicial power, we express no opinion. That can be dealt with when a proper case arises.)

[22] In the case of **Union of India v. International Trading Co., (2003) 5 SCC 437,** Hon'ble Supreme Court observed that illegality cannot be perpetuated in the name of equality under Article 14 of the Constitution and relevant para is reproduced below:

> *"13. What remains now to be considered, is the effect of permission granted to the thirty two vessels. As highlighted by learned counsel for the appellants, even if it is accepted that there was any improper permission, that may render such permissions vulnerable so far as the thirty two vessels are concerned, but it cannot come to the aid of the respondents. It is not necessary to deal with that aspect because two wrongs do not make one right. A party cannot claim that since something wrong has been done in another case direction should be given for doing another wrong. It would not be setting a wrong right, but would be perpetuating another wrong. In such matters there is no discrimination involved. The concept of equal treatment on the logic of Article 14 of the Constitution of India (in short "the Constitution") cannot be pressed into service in such cases. What the concept of equal treatment presupposes is existence of similar legal foothold. It does not countenance repetition of a wrong action to bring both wrongs on a par. Even if hypothetically it is accepted that a wrong has been committed in some other cases by introducing a concept of negative equality the respondents cannot strengthen their case. They have to establish strength of their case on some other basis and not by claiming negative equality."*

[23] In the case of **R. Muthukumar and Ors. vs. The Chairman and Managing Director, TANGEDCO and Ors.: MANU/SC/0159/2022: 2022 INSC 157**, Hon'ble Apex Court held that wrong order granted to similarly situated person cannot be granted to others in the name of

equality, as earlier wrong cannot be perpetuated. Relevant para is quoted for ready reference.

> *"24. A principle, axiomatic in this country's constitutional lore is that there is no negative equality. In other words, if there has been a benefit or advantage conferred on one or a set of people, without legal basis or justification, that benefit cannot multiply, or be relied upon as a principle of parity or equality. In Basawaraj and Anr. v. Special Land Acquisition Officer MANU/SC/0850/2013 : (2013) 14 SCC 81, this Court ruled that:*
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> > *8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated.*
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> *Other decisions have enunciated or applied this principle (Ref: Chandigarh Admn. v. Jagjit Singh MANU/SC/0136/1995 : (1995) 1 SCC 745, Anand Buttons Ltd. v. State of Haryana MANU/SC/1054/2004 : (2005) 9 SCC 164, K.K. Bhalla v. State of M.P. MANU/SC/0234/2006 : (2006) 3 SCC 581; Fuljit Kaur v. State of Punjab MANU/SC/0411/2010 : (2010) 11 SCC 455, and Chaman Lal v. State of Punjab MANU/SC/0497/2014 : (2014) 15 SCC 715). Recently, in The State of Odisha v. Anup Kumar Senapati this Court observed as follows:*
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> > *If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision."*

[24] Hon'ble Supreme Court held in the recent case of **Tinku vs. State of Haryana and Ors. (13.11.2024 - SC) : MANU/SC/1212/2024: 2024 INSC 867** that the principle of equality enshrined in Article 14 of the Constitution of India is clothed in positivity based on law. A wrong benefit, conferred to somebody contrary to a scheme or rule, cannot bestow the same benefit upon others in the name of equality. The relevant para may be reproduced for better appreciation of the concept.

> *"9. That apart, the claim as has been stated above, cannot be accepted being not supported with any statutory backing. This is required for making any claim including a claim for compassionate appointment, which is an exception to the general Rule of appointment requiring a proper advertisement and selection process to be followed as per Rules which is an accepted norm. If some wrong benefit has been conferred or some benefit which is contrary to the scheme has been granted, it would not bestow a right upon the others to claim it as a right of equality by reference to Article 14 of the Constitution of India.*
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> *10. There are catena of judgments of this Court that clearly lay down the principles which govern such claims. Some of which are Shanti Sports Club v. Union of India MANU/SC/1505/2009 : 2009:INSC:1077 : (2009) 15 SCC 705, Chandigarh Administration v. Jagjit Singh MANU/SC/0136/1995 : 1995:INSC:16 : (1995) 1 SCC 745, R. Muthukumar v. TANGEDCO MANU/SC/0159/2022 : 2022 INSC 157, Basawaraj and Anr. v. Special Land Acquisition Officer MANU/SC/0850/2013 : 2013 INSC 551 : (2013) 14 SCC 81.*
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> *11. The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having sanctity of law. No direction can, therefore, be issued mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable. Similarly, passing of an illegal order wrongfully conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would court be bound to accept such plea. The court will not compel the authority to repeat that illegality over*

again. If such claims are entertained and directions issued, that would not only be against the tenets of the justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification."

[25] From the above cited case laws, it is clear that the settled proposition of law is 'the benefits to a person or group of persons, both by the administrative as well as the judicial decisions, are to be extended to similarly situated persons on application of the principle of equality'. However, there is an accepted rider to this principle. The benefit so conferred by the administrative and the judicial decisions should be as per law. Any benefit granted contrary to statutory rules and instructions cannot be extended to similarly situated persons, as the doctrine of equality before law and equal treatment from law, is never intended to enforce a wrong act. In short, the doctrine of equality cannot be overstretched to perpetuate wrong things. The duty of court is to stop further proliferation of wrong things and to rectify the same. This Court is not examining, in this petition, the legality of the order dated 22.04.202 issued by the DGP, Manipur appointing those four candidates purportedly in compliance of the court's order. The petitioner has not prayed for such relief and in fact what is prayed for is parity with them.

[26] In view of the settled proposition of law that doctrine of equality cannot be resorted for perpetuating wrongful act, this Court is not inclined to issue the writ in the nature of mandamus in favour of the

petitioner for appointment as Assistant Sub Inspector of Police on parity with those four candidates who have been appointed even though scored less than 51 marks.

Whether the petitioner is entitled to any relief:

[27] In the present writ petition, there is a prayer for issuing a writ in the nature of certiorari to quash and set aside the impugned order dated 07.10.2022 passed by the office of the DGP, Manipur rejecting the representation of the petitioner for his request for appointment to the post of Assistant Sub Inspector of Police in parity with the case of those four candidates who are similarly situated with him. The only ground for rejection mentioned in the impugned order is that the petitioner *"failed to obtain the qualifying marks. His score is less than the last selected candidate in General Category (UR), i.e., 51 marks."* It is also mentioned in the impugned order that those four persons were appointed in compliance of this Court's order dated 16.09.2021. Admittedly, these four persons also scored less than 51 marks.

[28] From the perusal of order dated 16.09.2021 passed by this Court in WP(C) Nos. 300 of 2016 & 660 of 2020, it is clear that there was no specific direction for appointment of those four candidates from 'Not Qualified Candidates' list. Rather, the direction was for consideration of their appointment as ASI. However, in the order dated 22.04.2022 issued by the DGP, Manipur, it has wrongly been mentioned that the appointment was made in compliance of the Court's order. Since the appointment was not in strict term as per the direction of this Court and also admittedly below

51 marks cut-off, this Court is not inclined to issue the writ of mandamus in favour of the petitioner on the principle of parity, as observed in para 27 above. However, the legality of the impugned order can be viewed from another angle. The only reason given by the respondent for rejecting the representation for appointment is that the petitioner failed to score minimum cut-off '51' marks for UR category. Since the respondents have not specifically denied the averments of the petitioner in his rejoinder affidavit that 36 number of candidates belonging to UR category from the Wait List and scoring less than '51' marks were appointed, the only reason given by the respondents is untenable, wrong and cannot be sustained. Moreover, the appointment of the four candidates similarly situated with the petitioner and scoring less than '51' marks was never directed by this Court.

[29] In the case in hand, the respondents are blowing hot and cold. On one hand, they were appointing candidates belonging to UR category with scores less than the cut-off mark of '51'. On the other hand, they denied the request for the petitioner only on the ground that he failed to score minimum qualifying mark of '51'. It is the settled proposition of law that a person cannot take two inconsistent and totally divergent stands in the same transaction. In the case of **Rattan Lal v. State of Haryana: (1985) 4SCC 43**, Hon'ble Supreme Court observed as *"…… It is needless to say that the State Government is expected to function as a model employer"*.

[30] In the present case, the State respondents did not act like a model employer in a welfare society in the matter of public employment. On one hand, they have appointed persons below minimum eligibility criteria on the pretext of court's order and on the other hand, similarly situated persons have been denied the same treatment. As held above, this Court has been refrained from passing similar order in the case of the petitioner, only on the ground of non-applicability of the principle of equity and parity in perpetuating wrongful act. However, it may be noted that the approach of the respondents is highly unethical, arbitrary, and policy of pick & choose without following a definite norm. This Court is compelled to observe that the State respondents have miserably failed to act fairly as a model employer.

[31] In the circumstances, the impugned order dated 07.10.2022 passed by the respondent No.2 is set aside with a direction first to decide the cut-off mark for UR candidates in the recruitment of the Assistant Sub Inspector of Police (Civil/Male) in terms of the advertisement dated 24.04.2010; and then re-consider the representation of the petitioner afresh, keeping in mind that this Court never directed for outright appointment of those four other candidates except for consideration of their representation in the common order dated 16.09.2021. Since the recruitment is of the year 2010, it is further directed that the whole exercise shall be completed as expeditiously as possible and preferably within a period of 3 months from the date of receipt of a copy of this order.

[32] With these directions and observations, the writ petition is partly allowed and is disposed of. No cost.

[33] Send a copy of this order to the Director General of Police, Manipur for information and necessary compliance.

JUDGE

FR/NFR
Kh. Joshua Maring

KH. JOSHUA MARING

Digitally signed by KH. JOSHUA MARING
Date: 2025.06.16 15:31:37 +05'30'