



Serial No. 30
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 436 of 2024

Date of Decision :12.03.2026

1. Shri Ajit Cheran Momin
2. Shri Bilgrak M. Marak
3. Shri Izhar G. Momin
4. Shri Lonick Imphil Sangma

...Petitioner(s)

-Versus-

1. State of Meghalaya represented by
The Commissioner & Secretary,
Public Health Engineering Department, Shillong
2. The Deputy Secretary to the Government of Meghalaya,
Public Health Engineering Department, Shillong
3. The Chief Engineer, P.H.E.
Meghalaya, Shillong
4. Shri Patiencely Stone Lyngdoh,
Sub Divisional Officer, PHE,
Reservoir Sub Division, Mawphlang
East Khasi Hills, Meghalaya
5. Smti Shailin Dora Synrem,
Sub Divisional Officer, PHE,
Investigation Sub Division, Shillong,
East Khasi Hills, Meghalaya

...Respondent(s)



Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge.

Appearance:

For the Petitioner(s)	:	Mr. A.S. Siddiqui, Sr. Adv. with Ms. A. Kharmyndai, Adv.
For the Respondent(s)	:	Mr. N.D. Chullai, AAG with Ms. Z.E Nongkynrih, GA (For R 1-3) Mr. S. Sen, Adv. (For R 4&5)

i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. The petitioners who are presently serving as Sub-Divisional Officers/Assistant Engineers (Civil) in the PHE Department of the Government of Meghalaya by way of the instant writ petition are seeking rectification of the gradation list dated 14.02.2024, to show them senior to the respondents Nos. 4 & 5. The ground on which the rectification is sought is that the petitioners except for the petitioner No. 1, who is higher in the merit list than the respondent No. 5, but all lower in the merit list to the respondent No. 4, has been shown lower in the gradation list in spite of being



appointed earlier than the said respondents. The relevant dates being as follows:-

- i) Petitioner No. 1 was appointed on 12.01.2007
- ii) Petitioner No. 2 was appointed on 20.12.2006
- iii) Petitioner No. 3 was appointed on 22.12.2006
- iv) Petitioner No. 4 was appointed on 13.12.2006
- v) Respondent No. 4 was appointed on 03.05.2007
- vi) Respondent No. 5 was appointed on 15.05.2008

2. Mr. A.S. Siddiqui, learned Senior counsel assisted by Ms. A. Kharmyndai, learned counsel for the petitioners submits that the petitioners along with the other candidates had applied for the post of Assistant Engineer (Civil) in the Public Health Engineering Department and were part of the 22(Twenty-two) successful candidates recommended for appointment against 19(Nineteen) posts. The petitioners by virtue of the Reservation Policy, were then appointed against the said posts before the respondents Nos. 4 & 5. However, he submits in the inter se seniority list published by the respondent No. 2, dated 05.05.2021, the name of the respondent No. 4 was reflected at Sl. No. 16, which is above the petitioner No. 1 at Sl. No. 17, and the name of respondent No. 5 was reflected at Sl. No. 18, above the name of the respondents, Nos. 2, 3 & 4, who were shown at Sl. Nos. 19, 20



& 21, though they were appointed subsequently. Being aggrieved, the petitioners he submits, had preferred a representation on 11.03.2022 enclosing the Judgment and Order of this Court dated 10.02.2022 passed in WP(C) No. 301/2018 and other connected matters, wherein it was held that subsequently inducted employees, would not stand on the same footing as candidates appointed earlier though they may be higher in the merit list.

3. Without their grievance being addressed, the learned Senior counsel submits that the respondent No. 2 then published a draft gradation list on 01.01.2023, which again reflected the names of the petitioners below the names of the respondents. It is then submitted that the petitioners submitted a fresh representation to the respondent No. 2 on 25.05.2023 and also relied upon the Judgment dated 09.11.2022 delivered in *WP(C) 394 of 2021* in the case of *Zanera R. Marak & Ors. vs. State of Meghalaya*, which held that ordinarily a person in public employment appointed earlier, becomes senior to a person appointed later, irrespective of age, merit or other considerations. The said representation he submits, was rejected on the ground that the referred Judgment relied upon by the petitioners was not relevant, inasmuch as, the Rule governing the two services i.e. Meghalaya Civil Services and Meghalaya Public Health Engineering Service Rules were completely distinct from each other, and further Office Memorandum



dated 14.06.2023, governing the relationship between reservation roster and seniority was also referred to.

4. It is further submitted that the respondent No. 1, then published a fresh gradation list on 14.02.2024, showing the inter se seniority of the officers of the Department as on 01.01.2024, but the respondents Nos. 4 & 5 were shown at Sl. Nos. 7 & 9 respectively whereas, the petitioners' names were reflected at Sl. Nos. 8, 10, 11, 12 respectively. It is contended that the rejection of the representation on the basis of the respective Service Rules does not hold good, inasmuch as, there is no marked distinction between Rule 20(4) of the Meghalaya Public Health Engineering Rules, 1996 and Rule 16(4) of the Meghalaya Civil Service Rules, 1995. He has further submitted that as the MCS Rules had come up for consideration before the Division Bench in WP(C) No. 301 of 2018 and other connected matters, wherein the findings on the question of preferring the date of appointment over the merit list have been enunciated, the petitioners being appointed prior to the respondents Nos. 4 & 5, are entitled to be recorded as senior to these respondents and the impugned gradation list dated 14.02.2024, liable to be interfered with.

5. Mr. N.D. Chullai, learned AAG assisted by Ms. Z.E. Nongkynrih, learned GA on behalf of the respondents Nos. 1, 2 & 3, submits



that the inter se seniority list of the officers, is determined on the basis of placement of the candidates in the merit list issued by the Meghalaya Public Service Commission, regardless of the date of joining the post which is as per the Meghalaya Public Health Engineering Service Rules, 1996, wherein, Rule 20(4) has provided that the inter se seniority of the members, shall be in order on which their names appear in the merit list prepared under sub-rule (4) of Rule 13, or in the select list approved under sub-rule (5) of Rule 10 or sub-rule (4) of Rule 11. The learned AAG has then referred to the Division Bench Judgment dated 26.09.2023 passed in *WA No. 30 of 2023* in the case of *Krishpilla T. Sangma vs. State of Meghalaya*, wherein it has been held that as the merit list pertains to the same recruitment process, irrespective of when any individual actually joins the service, the seniority in the gradation list would have been on the basis of the marks obtained in the recruitment process, and the position in the merit list. He therefore, submits that the Judgment dated 26.09.2023 would be the applicable judgment in the instant case and as such no case has been made out, and the writ petition apart from being delayed, is liable to be dismissed.

6. Mr. S. Sen, learned counsel appearing for the respondents Nos. 4 & 5, has firstly raised the question of delay on the part of the petitioners in approaching this Court and submitted that the appointment having been



made as far back as on 2006/2007/2008, the petitioners have only challenged the gradation list dated 14.02.2024, which is too late in the day to unsettle a settled position. The learned counsel has then referred to the Judgment of the Supreme Court in the case of *Shiba Shankar Mohapatra & Ors vs. State of Orissa & Ors.* reported in *(2010) 12 SCC 471*, where he submits at Para-18 thereof, it has been held that any claim for seniority at a belated stage should be rejected as it seeks to disturb the accrued vested rights of other persons regarding seniority. He further submits that even in the case cited by the petitioner i.e. Judgment rendered in WP(C) 301/2018 and other connected cases dated 10.02.2022, this Court had referred to the fact that the writ petitioners therein, had not delayed in approaching the Court on their representation being rejected, whereas in the instant case the writ petitioners have only approached this Court after the draft gradation list of 2024 had been released. The learned counsel has also endorsed the submission on merits made by the learned AAG, that the inter se seniority of the parties have been maintained as per the merit list since their appointments, and further submits that several gradation lists had been prepared from the years 2009 to 2022, which the petitioners never objected to or challenged. The petitioners he submits are therefore, estopped from agitating the matter at this belated stage and the writ petition deserves no consideration.



7. On hearing the learned counsel for the parties, it is seen that the only claim of the writ petitioners to seniority, is based on the date of joining in the said posts. As noted earlier, the respondents Nos. 4 & 5 position in the merit list was at Sl. Nos. 16 & 20, whereas the petitioners 1 to 4, were placed at Sl. Nos. 18, 21, 22 & 23 respectively. The appointments however, in view of the operation of the Reservation Policy and also the fact that 19 vacancies were available, was made in stages i.e. petitioner No. 1 on 12.01.2007, petitioner No. 2 on 20.12.2006, petitioner No. 3 on 22.12.2006 and petitioner No. 4 on 13.12.2006 and the respondent No. 4 on 03.05.2007 and the respondent No. 5 on 15.05.2008.

8. Rule 20 of the Meghalaya Public Health Engineering Services Rules, 1996 at Rule 20(4) provides the inter se seniority of the members of the service appointed to different cadres shall be in order in which their names appear in the merit list prepared under Rule 13(4) or select list under Rule 10(5) or 11(4). Rule 20(4) for the sake of convenience is reproduced hereinbelow: -

“20 (4) The inter-se-seniority of the members of the service appointed to different cadres after the commencement of these rules shall be in order in which their names appear in the Merit List prepared under sub-rule (4) of Rule 13 or in the Select Lists approved under sub-rule (5) of Rule 10 or sub-rule (4) of Rule 11.”



9. Though it has been argued that the above quoted Rule is similar to Rule 16(4) of the Meghalaya Civil Service Rules on which reliance has been placed by the petitioners, it is to be noted that the rejection of the representation of the petitioners was on the ground that the two Rules are distinct and further Memorandum dated 14.06.2023 had been quoted, wherein at clause 7, it has been stated that Reservation Roster does not determine seniority, and that seniority will be continue to be based as per existing Rules. Coupled with this fact is the Judgment of this Court rendered after the Judgment relied upon by the petitioners i.e. ***Krishpilla T. Sangma*** (supra) which held at Paras-3 & 7, as follows: -

“3. Ordinarily, when recruitment for may positions in the same post is conducted through a competitive process, the persons who gain appointment at the end of the process are graded according to their merit. In other words, persons who obtain higher marks in the relevant competitive examination are placed higher in the gradation list as against persons who obtain lower marks. In many cases, rather erroneously, the gradation list is mixed up with the reservation list. While the reservation list indicates how many of the recruits at a particular recruitment process would have to come from among the reserved categories, the gradation list prepared at the end of such recruitment process has no nexus with the roster and has to be prepared according to the inter se merit based on the marks of the candidates at the particular process.

7.It is plain to see from the inter se seniority list of November 17, 2020 that while the appellant herein ranked 68th in the merit list, the three private respondents ranked 58th, 55th and 53rd in the same merit list. Since it is also evident that the merit list pertained to the same recruitment process, irrespective of



when any individual actually joined the service, the seniority and gradation list would have been on the basis of the marks obtained in the recruitment process and the positions in the merit list.”

(Emphasis supplied)

10. The writ petition apart from the observations made hereinabove, in the considered view of this Court is also not sustainable on the ground of inordinate delay, inasmuch as, several gradations lists have been prepared and notified from the years 2009 onwards, and the writ petitioners have only approached this Court at a belated stage and that too by impugning only the gradation list dated 14.02.2024. As held in the case of *Shiba Shankar Mohapatra & Ors vs. State of Orissa & Ors* (supra) in paragraphs 18 to 21, which is reproduced hereinbelow, the settled legal position is that once seniority has been fixed and it has remained in existence for a reasonable period, any challenge to the same should not be entertained.

“18. The question of entertaining the petition disputing the long-standing seniority filed at a belated stage is no more res integra. A Constitution Bench of this Court, in *Ramchandra Shankar Deodhar v. State of Maharashtra* (1974) 1 SCC 317 considered the effect of delay in challenging the promotion and seniority list and held that any claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb the vested rights of other persons regarding seniority, rank and promotion which have accrued to them during the intervening period. A party should approach the court just after accrual of the cause of complaint. While deciding the said case, this Court placed reliance upon its earlier judgments, particularly



in [Tilokchand Motichand v. H.B Munshi](#) (1969) 1 SCC 110, wherein it has been observed that the principle on which the court proceeds in refusing relief to the petitioner on the ground of laches or delay, is that the rights, which have accrued to others by reason of delay in filing the writ petition should not be allowed to be disturbed unless there is a reasonable explanation for delay. The Court further observed as under: (Tilokchand case (1969) 1 SCC 110)33

“7. . . . The party claiming fundamental rights must move the Court before other rights come into existence. The action of courts cannot harm innocent parties if their rights emerge by reason of delay on the part of the person moving the Court.”

19. This Court in [Ramchandra Shankar Deodhar](#) case (1974) 1 SCC 317 also placed reliance upon its earlier judgment of the Constitution Bench in [Rabindranath Bose v. Union of India](#) (1970) 1 SCC 84, wherein it has been observed as under: (Rabindranath Bose case (1970) 1 SCC 84)

“33. . . . It would be unjust to deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years.”

20. In [R.S Makashi v. I.M Menon](#) (1982) 1 SCC 379 this Court considered all aspects of limitation, delay and laches in filing the writ petition in respect of inter se seniority of the employees. The Court referred to its earlier judgment in [State Of M.P. v. Bhailal Bhai](#) AIR 1964 SC 1006, wherein it has been observed that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought, may ordinarily be taken to be a reasonable standard by which delay in seeking the remedy under Article 226 of the Constitution can be measured. The Court observed as under: (R.S Makashi case (1982) 1 SCC 379)



“28. ... ‘33. ... we must administer justice in accordance with law and principles of equity, justice and good conscience. It would be unjust to deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years. ...’

30. ... The petitioners have not furnished any valid explanation whatever for the inordinate delay on their part in approaching the court with the challenge against the seniority principles laid down in the Government Resolution of 1968. ... We would accordingly hold that the challenge raised by the petitioners against the seniority principles laid down in the Government Resolution of 22-3-1968 ought to have been rejected by the High Court on the ground of delay and laches and the writ petition insofar as it related to the prayer for quashing the said Government Resolution should have been dismissed.”

21. The issue of challenging the seniority list, which continued to be in existence for a long time, was again considered by this Court in [K.R Mudgal v. R.P Singh \(1986\) 4 SCC 531, AIR 1986 SC 2086](#). The Court held as under:([SCC pp. 532 & 536, paras 2 & 7](#))

“2. ... A government servant who is appointed to any post ordinarily should at least after a period of 3 or 4 years of his appointment be allowed to attend to the duties attached to his post peacefully and without any sense of insecurity. ...

7. ... Satisfactory service conditions postulate that there should be no sense of uncertainty amongst the government servants created by writ petitions filed after several years as in this case. It is essential that anyone who feels aggrieved by the seniority assigned



to him should approach the court as early as possible as otherwise in addition to the creation of a sense of insecurity in the minds of the government servants there would also be administrative complications and difficulties. ... In these circumstances we consider that the High Court was wrong in rejecting the preliminary objection raised on behalf of the respondents to the writ petition on the ground of laches.”

(emphasis added)

11. As such, in the circumstances aforesaid, there is no merit in the instant writ petition and the same stands dismissed.

JUDGE

Meghalaya
12.03.2026
“V. Lyndem- PS”