Serial No.01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.40/2015

Date of Order: 28.01.2020

Smti. Sujata Deb Roy Vs. State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. L.R. Das, Adv
For the Respondent(s) : Mr. S. Bhattacharjee, GA, for R 1 & 2
Mr. R. Choudhury, Adv. for R 3
Mr. B. Bhattacharjee, Adv. for R 4

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

1. This writ petition under Article 226 of the Constitution of India has been filed by Smti. Sujata Deb Roy challenging the order dated 06.11.2014 passed by the respondent no.2, whereby the proposal of respondent no.3 Managing Committee of the Umpling (R) Lower Primary School, Shillong, Meghalaya, for her appointment on regular basis against clear vacant post has been turned down. Further prayer is made for a direction to the respondents to approve the appointment of the petitioner made on 05.04.2004 as regular Teacher.

2. Facts of the case, briefly stated, are that the petitioner was appointed as Assistant Teacher on temporary basis with the respondent no.3 on a consolidated pay of Rs.1000/- per month. The petitioner was from time to time granted piecemeal increments inasmuch as she is currently in receipt of consolidated pay

of Rs.2500/- per month. The respondent no.3 is running the school under the deficit scheme of the State with a sanctioned staff of six regular teachers. After retirement of senior most regular teacher in the sanctioned strength, the respondent no.3 vide advertisement dated 11.03.2014 published in the Shillong Times, Shillong, invited applications from deserving candidates for appointment on regular basis. The petitioner also applied for the post. After completion of the selection process, she stood at serial no.1 in the merit. Her name was forwarded to the respondent no.2 - Sub Divisional School Education Officer, East Khasi Hills, Shillong, for approval, which, however, was refused by the impugned order on the premise that the petitioner has become overage, according to the petitioner, the respondent no.1 in the past in similar cases ignoring the upper age of the serving senior most temporary teachers, approved their appointment as regular teacher as a matter of course. The petitioner filed the present writ petition. A learned Single Judge of this Court vide judgment dated 01.06.2016 set aside the order dated 06.11.2014 issued by the Sub Divisional School Education Officer, Shillong, disapproving the proposal for appointment of the respondent no.1 Smti. Sujata Deb Roy (petitioner herein) on the post of Assistant Teacher in Umpling (R) Lower Primary School on the ground of her being over-age, and directed the respondents to issue "confirmation letter" of service in her favour. The respondent no.4 Smti. Manjusree Dutta, who was not a party to the writ petition, filed appeal (WA No.16 of 2017) against the aforesaid judgment with the leave of the Court before the Division Bench. The Division Bench of this Court, while setting aside the judgment of the Single Bench, allowed the appeal and restored the writ petition for reconsideration by the Single Bench by directing impleadment of appellant Smti. Manjusree Dutta as respondent no.4 with liberty

to her to file counter affidavit and also with liberty to the petitioner to submit additional affidavit or to seek amendment of the writ petition as may be advised. It may be significant to note that the petitioner and the respondent no.4, who filed the appeal against the earlier judgment of the Single Bench earlier passed in the present matter, were working as Assistant Teachers on temporary basis in the same school at the time of issuance of the advertisement. While the petitioner was placed at serial no.1 in the merit list, the respondent was placed at serial no.2. The respondent no.3 forwarded the name of the petitioner to the concerned authority for approval.

3. It is this writ petition, which was revived pursuant to order of remand of the Division Bench, which was dismissed by learned Single Bench by impugned judgment.

4. I have heard learned counsel for the parties.

5. Mr. L.R. Das, learned counsel for petitioner, has argued that the respondent no.3 in the past have on several occasions, always accommodated senior most temporary teachers against regular vacancies for appointment, which has always been approved by the respondent no.2. Learned counsel has referred to para 4 of the writ petition, wherein seven instances of such teachers have been given, who were originally appointed as temporary teachers but eventually on availability of vacancies owing to retirement of regular incumbents were appointed on regular basis and such appointments were always approved by the respondents no.1 and 2.

6. It is argued that even in the advertisement (Annexure-2) dated 11.03.2014 published in the Shillong Times issued by the respondent no.3 inviting applications from the eligible candidates, the only condition that was

mentioned was that the candidate must have Bengali as one of the subjects upto Graduation level. There was however no mention of any upper age limit. The petitioner applied for the post. She took the test-written and viva voce, along-with other applicants. She stood first and her name was forwarded to the respondent no.2, who illegally declined to approve the appointment of the petitioner on the ground of her being rendered overage. This action of the respondent no.2 is wholly discriminatory.

7. It is contended that even the relevant rules are absolutely silent on the question of upper age limit in the aided schools. Sub Rule (3) of Rule 1 of the Assam Service Rules for employees of the Government Aided Schools states that "no person over 60 years of age" shall be retained in teaching staff except on production of certificate of physical fitness, which would mean that teachers even beyond the age of 60 years may be continued in service. It is argued that while the petitioner as per the eligibility criteria indicated in the advertisement had Bengali as a subject upto her graduation level but the respondent no.4 did not fulfill that requirement.

8. Learned counsel argued that the observations made in the judgment of the Division Bench while remanding the matter to the Single Bench are tentative in nature for the purpose of deciding the appeal but finally the Division Bench deemed it appropriate to keep all the issues open since the matter was restored for reconsideration by the learned Single Judge. Therefore, the observations made in the judgment of the special appeal at page 8 of the judgment with regard to circular issued and the letter exchanged between various officers of the Department would have no bearing because they were neither issued by the State Government in exercise of its powers under Article 162 nor was there any

decision of the Cabinet in this behalf under Article 163(3) of the Constitution of India. Learned counsel in this behalf has relied on the judgment of the Supreme Court in Punit Rai Vs. Dinesh Chaudhry, (2003) 8 SCC 204 (relevant paras 41, 42 and 45) and (2011) 8 SCC 670 (relevant paras 23 and 24). Therefore, the learned Division Bench in the concluding para also observed that they were not elaborating on these aspects of the matter and would prefer to leave all such aspects for appropriate consideration and examination in the writ petition by the learned Single Judge. Any observation made in the judgment of the Division Bench should not be read against the petitioner and the matter has to be considered afresh for all the purpose.

9. Learned counsel for the petitioner also relied on Section 2(f) of the Meghalaya Board of Primary School Education Act, 1988, which reads that 'notification' means a notification published by Government in the Official Gazette. The respondent State has miserably failed to produce any of Gazette Notification of the Service Rules, despite clear observations by the Division Bench that the Government was required to clarify this. Neither the official respondents nor the private respondents clarified regarding lack of educational qualification of the respondent no.4, which question was also left open by the learned Division Bench for consideration by the Single Bench. Since the respondent no.4 does not have the requisite qualification as she did not have Bengali as one of the subjects at the Graduation level, she was ineligible for appointment. Reliance was placed on the judgment of the Supreme Court reported in (1992) 3 SCC 63, wherein it was held that decision and preference on uneducated person over an educated person amounts to allowing permission on ignorance, incompetence and consequently inefficiency.

10. Learned counsel for the petitioner submitted that Section 16 of the Meghalaya Education Code, 1981, clearly provides that primary schools mean the schools teaching upto the primary stage of education through the medium of vernacular. This salutary provision has been made to encourage the study of vernacular and save mother tongue which is in tune with the importance given by the UNESCO for the promotion, preservation and protection of the languages lest they are extinguished. Attention of the Court is drawn to the declaration made by the UNESCO in 1999 fixing 21st February of every year for observation as International Mother Language Day. This is because many languages have disappeared due to non-use which includes scores of Indian languages.

11. It is argued that the respondent no.2 in their affidavit in opposition has tried to mislead this Court by referring to Annexure-1 dated 24.08.1994 a notification issued by the Governor in respect of the autonomous district councils taking over LP Schools, which is wholly irrelevant for the present case, as it does not cover the government aided schools. Similarly, Annexure-2 dated 26.04.2000 is also wholly irrelevant for deciding the present writ petition as it is a letter issued by the Under Secretary to the Government to Director of Elementary Education in connection with "mode of appointment of Government OP School teachers" and does not apply to the Government Aided Schools. Annexure-3 is a judgment of the Supreme Court, whereby judgment passed by the High Court directing regularization of the respondent therein from the date of completion of ten years of service was set aside, whereas the present one is not a case of regularization.

12. Learned counsel for the petitioner submitted that the respondent no.4 in her affidavit has wrongly relied on Government circular dated 23.06.2010 which

relates to appointment in the government schools. Learned counsel, relying on the judgment of the Supreme Court reported in (2011) 8 SCC 670, has argued that the Supreme Court therein with reference to Article 77(1) and 166(1) of the Constitution of India has held that all executive action of the Government of India and the Government of a State are required to be issued in the name of the President or the Governor of the State concerned.

13. Mr. S. Bhattacharjee, learned Government Advocate appearing for the respondents no.1 and 2, submitted that school in question is being run and managed by the Managing Committee and the petitioner in that school was initially appointed on consolidated pay of Rs.1000/- and after grant of piecemeal increments from time to time he was presently receiving a sum of Rs.2500/- as consolidated monthly salary. This clearly proves that the post occupied by her is not a sanctioned post that may fall under the jurisdiction of the respondent no.2. It is submitted that the post which fell vacant consequent upon retirement of regular teacher was advertised by the Managing Committee but the claim of the petitioner that senior most temporary teacher has always been accommodated as regular teacher irrespective of his/her age is totally baseless. Reference in this behalf was placed on the memo dated 23.06.2010 issued by the Director of School Education and Literacy, Meghalaya, Shillong, which states the upper age limit for appointment to the Government Aided Schools to be 35+5 for Scheduled Caste/Scheduled Tribe and 35+3 for Other Backward Classes. The respondent no.2 has refused approval of appointment of the petitioner on the basis that she has already crossed 35 years of age as conveyed vide letter dated 23.06.2010 by the Director of School Education and Literacy, Meghalaya, Shillong and that an over-age candidate cannot be considered for appointment. The Deputy Inspector

of Schools, Shillong, vide memo dated 12.10.2006 informed the Secretary, M.C. Vivekananda L.P. School that appointment of Smti. Gita Chakravarty as an Assistant Teacher of the School cannot be considered as she is over age and the same rule is followed in the present case.

14. Reference is made to letter dated 30.01.2009 issued by the Deputy Inspector of School, wherein it was stated that the minimum qualification for appointment of Assistant Teacher is Class XII passed and also as per provision of SR-6 (a)(iv) of the Meghalaya Fundamental Rules and Subsidiary Rules, 1984, the upper age limit for appointment of candidates in Government Aided Schools may be considered upto 40 years, therefore, the appointment of Smti. Metilda Nongbri cannot be approved as she was not qualified and over age. The Management was advised to advertise the vacant post and conduct both written and personal exam so as to submit the panel of the selected candidates for necessary action. It is argued that the office of the Sub Divisional School Education Officer, Shillong, has strictly complied with the Rules and guidelines given by the Directorate of School Education and Literacy, Meghalaya, Shillong. It is the responsibility of the School's Managing Committee in the Government Aided Schools for proper screening of the applicants as per the Rules and Regulations issued from time to time before sending the appointment to the office of the Sub Divisional Officer.

15. Mr. R. Choudhury, learned counsel appearing for the respondent no.3 Managing Committee, submitted that respondent no.4 Smti. Manjusree Dutta also appeared in the competitive examination consisting of written plus viva voce along-with the petitioner but she stood second in the merit list whereas the petitioner stood first. Attention is invited to the affidavit dated 25.04.2019 filed

on behalf of the Managing Committee to clarify with regard to interpretation of SR-6 (a)(iv) of the Meghalaya Fundamental Rules and Subsidiary Rules, 1984, to which counter has been filed by the respondent no.4 on 02.07.2019. In the affidavit aforesaid, the respondent Managing Committee has clarified the question with regard to age of candidate for recruitment as Teacher in the Government Aided Lower Primary/Upper Primary Schools and Secondary level and also applicability of the Meghalaya Fundamental Rules and Subsidiary Rules, 1984, which Rules are adhered for recruitment in Government services. It is argued taht there is no basis for official respondents to contend that upper age limit for employment in the Government Aided Schools is 35 years for general candidates with relaxation of five years for Scheduled Castes/Scheduled Tribes and three years for Other Backward Classes. This contention is based on SR-6 (a)(iv) of the Meghalaya Fundamental Rules and Subsidiary Rules, 1984, which is meant only for recruitment in Government service of Meghalaya School Service and Posts etc. In contrast to this, the stand of the Government Advocate before the Single Bench of this Court as recorded in the order dated 18.03.2015 at the time of motion hearings that the State of Meghalaya had adopted the Assam Rules for Government Aided Schools and under that Rule a candidate is to be selected by the Selection Committee. The petitioner has wrongly been adjudged over age on the basis of SR-6 (a)(iv) of the Meghalaya Fundamental Rules and Subsidiary Rules, 1984. In fact, no rule has so far been framed by the State Government in its Education Department so as to govern the service conditions of the Government Aided Schools, which is evident from the memo dated 26.03.1996 approving appointment of Smti. Meera Chakraborty when her age was above 40 years. Since the Government has, as per the stand before this Court

during the course of hearing expressed on 18.03.2019, adopted the Assam Service Rules for Employees of Government Aided Schools, for its employees of Government aided schools, the appointment of the petitioner on regular basis is perfectly in conformity with such Rules. Case of the petitioner is identical to many other teachers whose services upon appointment by the school Managing Committee were approved even after attaining the age of 45 years with reference to Assam Service Rules for employees of the Government Aided Schools.

16. Mr. B. Bhattacharjee, learned counsel appearing for the respondent no.4, opposed the writ petition and submitted that as per instructions dated 30.01.2009 issued by the Education Department of the State, the prescribed qualification for appointment as Assistant Teachers being Aided Primary School is Class XII pass, therefore, the respondent no.4 was allowed to participate in the selection process. The respondent no.4 was allotted two marks for academic qualification, meaning thereby that the respondent no.4 fell within the zone of consideration. The Managing Committee however forwarded the name of the writ petitioner to the respondent State for approval. The respondent no.4 at the time of advertisement was only 34 years 4 months 10 days, whereas the petitioner was 35 years 11 months and 3 days. There is no rule made by the respondent State prescribing the age limit for appointment as Assistant Teacher in the Aided LP School and the same is regulated by the instructions issued by the respondent State from time to time. The age limit for appointment on the post of Assistant Teacher in the aided school at that relevant point of time was 35+5 for Scheduled Caste/Scheduled Tribes and 35+3 years for Other Backward Classes as per the standing instructions dated 23.06.2010, and thus obviously 35 years would be the age for general category candidates. The respondent State has therefore rightly

declined approval of selection of the petitioner for regular appointment. It is submitted that in view of observations made by the Division Bench while setting aside the earlier judgment passed by the Single Bench, the writ petition filed by the petitioner is liable to be dismissed. In instances of regularization of services of teachers cited by the petitioner the names given are without any supporting material from the official record and therefore are not acceptable. The present one is a simple case of selection pursuant to advertisement dated 11.03.2014 and therefore all the provisions applicable to a direct recruitment shall be attracted including about the upper age limit. The Division Bench while remanding matter categorically held that it cannot be accepted that there is no upper age limit for recruitment in the Government Aided Schools. As per the Meghalaya Education Code, 1981, the criteria including the age limit, for appointment on the post of Teacher under the Grant-in-Aid Scheme falls specifically in the domain of the appropriate department of the Government. Reference is made to Section 9(1) and Section 31(1) of the Meghalaya School Education Act, 1981 empowering the State Government to make rules regulating the minimum qualification for recruitment and the condition of service of employees of recognized schools. It is not a case of regularization but a direct recruitment. It is therefore prayed that the writ petition be dismissed.

17. I have given my thoughtful consideration to rival submissions and perused the material on record.

18. It may be at the outset made clear that the petitioner has not prayed for a direction to the respondents for her regularization in service. There is therefore no question of this petition being treated one for regularization of service. The sole question that arises for consideration is whether or not the petitioner, who

applied for selection pursuant to advertisement issued by the respondent no.3 for recruitment on the regular post of Assistant Teacher which had fallen vacant on account of retirement of a permanent incumbent working thereon, should be considered eligible being overage. The petitioner has in para 4 of the writ petition has given names of seven persons with specific assertion that the respondent no.2 in the past had approved their appointment especially when some of them had crossed the age of 40 years and in one case even 50 years, in the school of respondent no.3 on the analogy that they were already working with the said school and were within the age limit when they were initially appointed as Assistant Teacher on temporary basis on consolidated pay. The further case of the petitioner specifically asserted in para 5 of the memo of writ petition is that it has been the practice of the respondents that on superannuation of the senior most teacher, the already working teachers in the said school were considered eligible for applying in response to advertisement for regular recruitment and petitioner also in the same manner applied for and was considered eligible. The particulars of those seven persons as given in para 4 of the memo of writ petirtion are as follows:-

NAME	DATE OF BIRTH	DATE OF APPROVAL	AGE
1. Smti. Aruna Sarka	16.03.1944	01.03.1984	40-0-15
2. Smti. Shanti Das	01.03.1936	01.03.1984	40-0-19
3. Smti. Chinmayee Deb	19.10.1941	01.03.1984	48-4-10
4. Smti. Rita Bhattacharjee	01.03.1940	01.03.1984	44-0-0
5. Smti. Smriti Dutta	30.06.1938	01.03.1984	44-08-1
6. Smti. Mira Chakraborty	15.03.1954	01.03.1996	41-11-1
7. Smti. Purabi Goswami	01.01.1949	01.04.1999	50-3-00

19. That the respondents conducted the written examination as well as viva-voce for recruitment in question. Petitioner appeared in the written test as well as viva-voce. Similarly, the respondent no.4, who too was working with the same school, also appeared in the written test as well as viva-voce. While the petitioner secured first position in the merit list, the respondent no.4 stood second. The respondents no.1 and 2 in their affidavit in opposition, in response to the aforesaid paras have merely stated that on superannuation of the regular teacher the vacant post was advertised and the Managing Committee of the said school conducted written as also personal interview and ultimately submitted the proposal to the office of respondent no.2 for approval as conveyed by the Deputy Director of the School Education and Literacy, Meghalaya, Shillong vide letter dated 19.08.2014. They have relied on letter dated 23.06.2010 addressed by the Director of School Education and Literacy, Meghalaya, Shillong, to the Deputy Inspector of Schools, Shillong that upper age limit for appointment to Government aided School is 35+5 for Scheduled Caste/Scheduled Tribe and 35+3 for OBC. On this basis, they want to contend that upper age limit for general candidate was only 35 years. But surprisingly letter dated 30.01.2009 (Annexure-E) sent by the Deputy Inspector of Schools, Shillong, to the Secretary, Managing Committee, Mawkriah Presbyterian L.P. School, Mawkriah, an another aided school, it was conveyed that as pr the provisions of SR 6 (a)(iv) of the Meghalaya FRs & SRs, 1984, the upper age limit of appointment of candidates as assistant teachers in government aided schools is upto 40 years.This was so stated in the context of appointment of one Smti. Metilda Nongbri, who obviously was more than 40 years of age at that time and therefore it was conveyed that her appointment cannot be approved since she was overage. Para

12 of the counter affidavit filed by the respondents no.1 and 2 in this respect reads as under:-

> "That the deponent begs to state that with reference to Age of the fresh appointee, it can be mentioned that the over age appointee cannot be considered and this has been followed and accepted in previous instances too, which is evident from the letter No.DL/LP/MC/58/08/234091/ dated 30.01.2009 issued by the Deputy Inspector of School, wherein it is stated that the minimum qualification for appointment of Assistant teacher is class XII passed and also as per the provision of SR-6 (a)(iv) of the Meghalaya FRs & SRs 1984, the upper age limit of Appointment of Candidates in Government aided Schools may be considered upto 40 years. Therefore appointment of Smti. Metilda Nongbri cannot be approved, since she is under qualified and overaged and as such, the Secretary of the said School was requested to advertise the vacant post and conduct both written and personal exam."

20. When the matter was listed before the Court on 18.03.2015, learned Senior GA appearing for the respondents no.1 and 2 contended that the State of Meghalaya has adopted the Assam Rule for the Government Aided Schools of Assam and teachers in the Government Aided Schoolsare to be selected by the Selection Committee as per the aforesaid Rules. Sub Rule (3) of Rule 1 of the Assam Service Rules merely provides that "no person over 60 years of age" shall be retained in teaching staff except on production of certificate of physical fitness. On the basis thereof, the learned counsel for the petitioner contended that when a person even beyond the age of 60 years can be continued in service in a government aided school subject to fitness, there is no justification for treating the petitioner overage. Moreover, this cannot be lost sight of that where the petitioner was initially appointed in the school of the respondent no.3 on 05.04.2004 her age was only about 26 years and she continued there to serve the respondent no.3, till the advertisement for recruitment was issued. She should be considered eligible in the face of the fact that the respondents have in the past

always approved the appointment of all other similarly situated candidates who applied for in response to advertisement issued by the respondent no.3 for filling up of the posts by direct recruitment in the vacancy caused by retirement of regular incumbent and always gave opportunity to temporary teachers already serving the school to compete along-side the open market candidates. When the petitioner has been selected, in such a competition, she cannot be discriminated against by treating her to be ineligible particularly when she was not only within the age limit when she joined the services of the respondent no.3 but was much less than 40 years of age, upto which the respondents were deeming the similarly situated candidates within the age limit. Age limit of 40 years for general candidates has also been accepted by them in para 12 of their counter affidavit. Apart from above, the petitioner has in Annexure-4 of the rejoinder-affidavit given several more instances to contend that the respondents have confirmed the persons against the sanctioned posts, who had even attained the age of more than 40 years, which are as follows:-

"Non-Govt. L.P. Schools under Shillong Municipal Cantonment			
Sl.No.	Name of Schools & Name of Teachers	Date of Appointment	Date of Birth
10.	**Gurkha Pathsala**		
iii	Smti S. Gurung	01.07.2001	22.09.1968 (41 years)
13.	**K.J.P. Girl LP School**		
ii	Smti. S. Synrem	01.05.1997	10.10.1969 (37 years)
18.	**Lumparing Pres LP School**		
i	Smti. Iohtilang Kharkongor	01.02.1998	07.08.1970 (38 years)
21.	**Lumparing RCLP**		
i	Sr. Arsida Songthiang	01.03.2011	27.03.1983 (38 years)

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ii	Shri B. Wahalang	01.03.2002	13.05.1964 (38 years)
42.	**St. Dominic Savio LP School**		
iv	Smti. A. Doloi	16.03.2005	15.09.1968 (37 years)
53.	**Sein Jaintia LP School**		
iii	Shri F.L. Shullai	15.02.2006	01.01.1967 (39 years)

Non-Govt. L.P. Schools under Pynursla Block				
Sl. No.	Name of Schools	Name of Teacher	Date of Birth	Date of appointment
9.	**Nongskhen Pratlynti RCLP School**	Smti. S Massar	18.3.1956	1.3.1995 (39 years)
22.	**Nongthymmai Pres. LP School**	Smti. M. Ryndong	2.2.1971	1.9.2009 (38 years)

List of teachers appointed on 1995 till date			
Name of the incumbent (to indicate Male/Female)	Date of Joining	Date of Birth	Remarks
1	2	3	4
Auxillium RCLP			
Smti. Christina Nonghuloo	1.2.2004	6.10.1967	37 years
S. Fernando RCLP			
Smti. Cathrine Kyntiewmon Lyngdoh	1.3.1995	31.8.1957	38 years
St. Peter Madanriting RCLP			
Smti. Khrelbon Nongrum	1.3.2005	4.3.1966	39 years
Smti. Theresia Kharumnuid	1.3.2003	13.6.1964	39 years
St. John Bosco RCLP Lawsohtun			
Smti. Jim Paul Nongkynrih	02.07.08	11.11.1971	37 years
Sacred Heart Girls' RCLP			
Sr. Bertina Kurbah	1.8.2010	16.3.1974	36 years
Smti. Annavella Shangpliang	14.6.1975	1.4.2012	37 years
Smti. Rosy Mary Warjri	1.2.2011	4.2.1974	37 years
Smti. Daplin M. Thongni	1.3.2009	10.9.1972	37 years

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Sacred Heart Boys' RCLP			
Smti. Blestina Lyngkot	1.3.2006	21.2.1967	39 years
Pomlakrai Pres. LP			
Smti. E. Sohtun	1.10.2009	20.6.1970	39 years
Mawlai Iewrynghep Pres. LP			
Shri. M.H.J. Dkhar	1.6.2014	22.8.1975	39 years
Phudmuri Pres. LP			
Smti. Lakyntiew Kharsyntiew	1.3.2010	1.12.1972	38 years
Madanriting Pres. LP			
Smti. Baiahunlang Syiem	22.9.2000	15.5.1967	
Umlympung Pres. LP			
Smti. Secreentila Nongbet	1.7.2014	1.3.1975	39 years
Christian LPS Mawlai Umthlong			
Smti. Pricilynw Kharbudon	1.8.1999	13.10.1961	38 years
Christ Church LP Mawlai			
Smti. M. Basanshrieh	1.1.2009	11.5.1971	38 years
Smti. B. Lyngdoh	1.9.2013	26.7.1970	43 years
Umpling Rynjah LP			
Smti. Mira Chakravorty	1.3.1996	15.3.1954	The office of the SDSEO has no record of her approval of appointment."

21. The respondents have not given any specific rebuttal countering the plea set up by the petitioner in the averments made in para 4 of the writ petition.Even the afore extracted assertion has not been effectively countered that they did not approve the appointment of any such temporary teachers working in Non-Government L.P. Schools beyond the age of 35 years. Action of the official respondents denying the benefits of regular appointment to the petitioner despite her having secured first position in the competitive examination, in the face of

utter confusion with regard to the correct upper age limit of teachers in Government Aided Schools/Schools run under deficit scheme of the State/Non-Government L.P. Schoolsand also as to which rule would actually apply to them, is declared to be discriminatory inasmuch as violative of Articles 14 and 16 of the Constitution of India.

22. In the result, the writ petition deserves to succeed and is hereby allowed. The impugned order is set aside. The respondents are directed to grant regular appointment to the petitioner from the date she was initially selected pursuant to the competitive examination, with all consequential benefits. Compliance of the judgment be made within a period of three months.

(Mohammad Rafiq)
Chief Justice

Meghalaya
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"Lam AR-PS"