Serial No. 13
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 447 of 2020

Date of Order: 16.12.2020

Meghalaya Secretariat Service Typist Association and Anr. Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice Ranjit More, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. M.F.Qureshi. Adv.

For the Respondent(s) : Mr. A. Kumar, AG with
Mr. S.Sengupta, Addl. Sr. GA.

1. Heard learned counsel for the respective parties.

2. In respect of the grievance made in the present petition, petitioner has earlier approached this High Court by filing writ petition bearing WP(C). No. 269 of 2019. This writ petition was disposed of by learned Single Judge of this Court by order 23-07-2019. By this order, the petitioner association was permitted to file comprehensive representation before the respondent No. 2 within a period of one month from the date of receipt of certified copy of the order and respondent No. 2 was directed to decide the said representation after affording opportunity of hearing to the petitioner association or its representative by passing a speaking order in accordance with law.

3. The petitioner association thereafter filed a representation before respondent No. 2 with respect to their grievance dated 6th August, 2019, copy of which is annexed as Annexure-C at page 18 of the petition. Petitioner thereafter, received a communication from the Under Secretary to the Govt. of Meghalaya dated 14-01-2020 which reads as follows:

"GOVERNMENT OF MEGHALAYA
SECRETARIAT ADMINISTRATION DEPARTMENT::
ESTABLISHMENT

No. SAE.56/2019/9, Dated Shillong, the 14th January, 2020

From : *Shri L. Kharkongor,*
Under Secretary to the Govt. of Meghalaya,
Sectt. Admin. Department (Estt.)

To,

The President
Meghalaya Secretariat Service Typists' Association
Shillong.

Subject : *WP(C)269/2019-The Meghalaya Secretariat Typists' Association & Anr. Vrs, - State of Meghalaya & Anr.*

With reference to the High Court of Meghalaya, Shillong Order dt. 23.7.2019 I am forwarding herewith a copy of the letter No. SAE.49/2002/67, dt. 7.8.2013 & Finance (PR) Department endorsement dt. 15.11.2018 for your information.

Enclo : As stated. *(L. Kharkongor)*
Under Secretary to the Govt. of Meghalaya.
Sectt. Admin. Department (Estt.)"

4. Along with the communication dated 14-01-2020, the Under Secretary to the Govt. of Meghalaya has annexed the Office Memorandum dated 7th August, 2013, issued by the Deputy Secretary to the Govt. of Meghalaya, Sectt. Admn. Deptt. (Estt). The said Office Memorandum discuss that consequent upon the Government decision on the recommendation of the Fourth Pay Commission, the Governor of Meghalaya was pleased to decide for the encadrement of the Graduate typist to the Lower Division Assistant cadre in Meghalaya Secretariat as indicated in Clause 'i' to 'viii' therein.

5. The petitioner being aggrieved again approached this Court by filing present petition. Both the communication dated 14-01-2020 by the Under Secretary to the Govt. of Meghalaya as well as the Office Memorandum dated 7th August, 2013 are not in compliance with the order dated 23-07-2019 passed by learned Single Judge of this Court in WP(C). No. 269 of 2019 for the reasons more than one. Firstly, the High Court had directed respondent No. 2 to decide petitioner's representation, however, the communication is by the Under Secretary to the Govt. of Meghalaya. Secondly, no opportunity of hearing was granted to the petitioner or its representative as mandated under the said order. Thirdly, the petitioner's representation was also not disposed of by a speaking order.

6. In the above facts and circumstances, in my considered view, the communication dated 14-01-2020 by the Under Secretary to the Govt. of Meghalaya, Sectt. Admn, Department (Estt.) cannot be sustained and same is accordingly quashed and set aside. Respondent No. 2 is directed to decide petitioner's representation dated 6th August, 2019, copy of which is annexed as Annexure-C at page 18 as expeditiously as possible, preferably within the period of 3(three) months from the date of receipt of this order.

7. It is made clear that the said representation shall be decided independently on its own merit and in accordance with law. Respondent No. 2 shall decide the said representation only after giving an opportunity of hearing to the petitioner or its representative and by passing a speaking order.

8. Subject to above, petition is disposed of.

Judge

Meghalaya
16.12.2020
"Samantha PS"