

GAHC020006082022

2025:GAU-NL:462



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

Case No. : WP(C)/222/2022

SHRI. SAMUEL AO AND 2 ORS
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR, UNDER
THE ESTABLISHMENT OF DEF,
KOHIMA

2: SHRI. MULEKHOYI

PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR
UNDER THE ESTABLISHMENT OF
SP
KOHIMA

3: SHRI. ABEL JUNSUO HUMTSOE

PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR
UNDER THE ESTABLISHMENT OF IGP(INT.) ESTT.
KOHIM

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF NAGALAND, KOHIMA

2:THE PRINCIPAL SECRETARY(HOME)

GOVERNMENT OF NAGALAND
KOHIMA

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS

NAGALAND
KOHIMA

4:THE HOME COMMISSIONER TO THE GOVERNMENT OF
NAGALAND

KOHIMA

5:THE DIRECTOR GENERAL OF POLICE

PHQ
NAGALAND
KOHIM

Advocate for the Petitioner : A. ZHO, TAKA KICHU,V KOZA,W. MARHU

Advocate for the Respondent : GOVT ADV NL,

Linked Case : WP(C)/237/2021

SHRI. SAMUEL AO AND 5 ORS
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
KOHIMA

2: SHRI. KEYIEKHRIE ANGAMI
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF PHQ
NAGALAND

3: SHRI. I. MEKANDO PDYUO
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
MON

4: SHRI. MULEKHOYI
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF SP
KOHIMA

5: SHRI. ABEL JONSUO HUMTSOE
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER

THE ESTABLISHMENT OF IGP(INT) ESTT. KOHIMA

6: SHRI. GHOSHITO SWU
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF IGP (INT) KOHIMA NAGALAND
VERSUS

THE STATE OF NAGALAND AND 7 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF NAGALAND

2:THE PRINCIPAL SECRETARY (HOME)
GOVERNMENT OF NAGALAND
KOHIMA

3:THE DIRECTOR GENERAL OF POLICE
PHQ
NAGALAND KOHIMA

4:SHRI. NG. HINGBA ZELIANG
PRESENTLY SERVING AS ASSTT. COMDT. 14TH NAP (IR)
KIPHIRE

5:SHRI. Y. ASHITO AYE
PRESENTLY SERVING AS DY.SP/ASSTT.COMDT. 7TH NAP
BHANDARI
WOKHA

6:SHRI AODANGTI AO
PRESENTLY SERVING AS DY.SP/ASST. COMDT. 10TH NAP (IR)
ZHADIMA
KOHIMA

7:SHRI. LANUWAPANG AO
PRESENTLY SERVING AS ASSTT. COMDT. 13TH NAP (IR)
ABOI
MON

8:SHRI. NOKENSASHI AO
PRESENTLY SERVING AS ASSTT. COMDT. 4TH NAP
THIZAMA
KOHIMA

Advocate for : T. KOZA

Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND
AND 7 ORS

Linked Case : WP(C)/232/2021

SHRI. N. LIKAO ODYUO AND 16 ORS
PRESENTLY SERVING AS UNARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF SB
DIMAPUR

2: SHRI. Y NCHUMBEMO HUMTSOE
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
KOHIMA

3: SHRI. L CHENITHUNG KIKON
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
WOKHA

4: SHRI. AKUM NUNGSANG
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
PEREN

5: SHRI. VIKEHETO KANNA-O
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
WOKHA

6: SHRI. MUGULHU SAPU
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
NOKLAK

7: SHRI. MEPU KONYAK
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF SB
MON

8: SHRI. BANGTUN ZELIANG
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
PEREN

9: SHRI. CHUMDEMO ODYUO
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF SB
KOHIMA

10: SHRI. CHUBAONEN
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF CP
DIMAPUR

11: SHRI. K. CHUPATHUNG NGULLIE
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF CB
PHQ

12: SHRI. BENDANGSANGBA JAMIR
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
KIPHIRE

13: SHRI. VIKURULIE LHOUSA
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF IGP (INT)
ESTT. KOHIMA

14: SHRI. MEDOSA YOHO
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
PHEK

15: SHRI. L. YANTHITHUNG LOTHIA
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
PEREN

16: SHRI. S. BOKATO SEMA
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF CP
DIMAPUR

17: SHRI. N. YANBEMO KITHAN
PRESENTLY SERVING AS UN-ARMED BRANCH INSPECTOR UNDER
THE ESTABLISHMENT OF DEF
WOKHA
VERSUS

THE STATE OF NAGALAND AND 77 ORS
STATE OF NAGALAND REPRESENTED BY THE CHIEF SECRETARY TO
THE GOVERNMENT OF NAGALAND

2: THE PRINCIPAL SECRETARY
(HOME)
GOVERNMENT OF NAGALAND

KOHIMA

3:THE DIRECTOR GENERAL OF POLICE
PHQ
NAGALAND
KOHIMA

4:SHRRI. ONENLEPDEN JAMIR
PRESENTLY SERVING AS ASST. COMMANDANT
15TH NAP (IR) CHUMUKEDIMA
DIMAPUR

5:SHRI. Y. KHOCHAMO HUMTSOE
PRESENTLY SERVING AS DY.SP/ASST. COMMANDANT
2ND NAP BN.
AOLICHEN
MOKOKCHUNG

6:SHRI. N.G. HINGBA ZELIANG
PRESENTLY SERVING AS ABI
DEF
KOHIMA

7:SHRI. LPOKAKUM JAMIR
PRESENTLY SERVING AS ABI
DEF
KOHIMA

8:SHRI. ALONGBA
PRESENTLY SERVING AS ABI
9TH NAP (IR) SAIJANG
PEREN

9:SHRI. AKHO ALEX
PRESENTLY SERVING AS ABI
13TH NAP (IR) ATTACHED TO NAPTC
CHUMUKEDIMA
DIMAPUR

10:SHRI. TIANUNGBA
PRESENTLY SERVING AS ABI
DEF PHEK

11:SHRI. SOLEVI METHA
PRESENTLY SERVING AS ABI DEF KOHIMA

12:SHRI. ROBIN EZUNG
PRESENTLY SERVING AS ABI

11TH IR BN.
ABOI
MON

13:SHRI. VEDOUPE LASUH
PRESENTLY SERVING AS ABI
14TH NAP (IR
)ZHADIMA
KOHIMA

14:SHRI. PAUL CHAWAN
PRESENTLY SERVING AS ABI
PTS
CHUMUKEDIMA
DIMAPUR

15:SHRI. VEDEHU THULUO
PRESENTLY SERVING AS ABI PTS
CHUMUKEDIMA

16:SHRI. NEIHULIE METHA
PRESENTLY SERVING AS ABI
15TH NAP (IR) CHUMUKEDIMA
DIMAPUR

17:SHRI. IMLIYANGER AO
PRESENTLY SERVING AS ABI
NAPTC
CHUMUKEDIMA
DIMAPUR

18:SHRI. Y. ASHITO AYE
PRESENTLY SERVING AS DY.SP
7TH NAP (IR)
BHANDARI
WOKHA

19:SHRI. AODANGTI AO
PRESENTLY SERVING AS ABI
10TH IR BN.
ZHADIMA
KOHIMA

20:SHRI. LANUWAPANG AO
PRESENTLY SERVING AS ABI
2ND NAP
ALICHEN
MOKOKCHUNG

21:SHRI. NOKENSASHI AO
PRESENTLY SERVING AS ABI
4TH NAP
THIZAMA
KOHIMA

22:SHRI JOSEPH SUMI
PRESENTLY SERVING AS ABI
NAPTC
CHUMUKEDIMA
DIMAPUR

23:SHRI. K HEKATO SUMI
PRESENTLY SERVING AS ABI DEF
KOHIMA

24:SHRI. M. TEMSU JAMIR
PRESENTLY SERVING AS ABI
2ND NAP BN
AOLICHEN
MOKOKCHUNG

25:SHRI. MARTOSHI AO
PRESENTLY SERVING AS ABI
2ND NAP BN
AOLICHEN
MOKOKCHUNG

26:SHRI MHALEZOLIE PIELIE
PRESENTLY SERVING AS ABI
10TH IR BN.
ZHADIMA
KOHIMA

27:SHRI. NEISEZOLIE LIEZIETSU
PRESENTLY SERVING AS ABI DEF
KOHIMA

28:SHRI. MHABEMO EZUNG
PRESENTLY SERVING AS ABI 15TH IR BN.
CHUMUKEDIMA
DIMAPUR

29:SHRI. RONGSENSASHI AO
PRESENTLY SERVING AS ABI
12TH IR BN TULI
YAJANG

MOKOKCHUNG

30:SHRI. VIKIQHE SUMI
PRESENTLY SERVING AS ABI
9TH IR BN.
SAIJAN
PEREN

31:SHRI. VIKUTO RAKHO
PRESENTLY SERVING AS ABI
9TH IR BN. SAIJAN PEREN

32:SHRI. IMLIRI AO
PRESENTLY SERVING AS ABI
SPECIAL TASK FORCE (STF)
PHQ

33:SHRI. VEBOZU KEZO
PRESENTLY SERVING AS ABI
15TH IR BN.
CHUMUKEDIMA
DIMAPUR

34:SHRI. KAIKHO CHIO-KHIAM
PRESENTLY SERVING AS ABI INT PHQ
KOHIMA

35:SHRI. A. YANGSHO PHOM
PRESENTLY SERVING AS ABI
1ST IR NAP BN.
CHUMUKEDIMA
DIMAPUR

36:SHRI. PETEKUOLIE KIEWHUO
PRESENTLY SERVING AS ABI
10TH IR BN.
ZHADIMA
KOHIMA

37:SHRI. K. PURTOSHI PONGEN
PRESENTLY SERVING AS ABI
12TH IR BN.
LONGLENG

38:SHRI. W. YANSAROMO LOTHIA
PRESENTLY SERVING AS ABI
5TH NAP BN.
PHEK

39:SHRI. NONGSENTIBA
PRESENTLY SERVING AS ABI
12TH IR BN.
TULI-YAJANG
MOKOKCHUNG

40:SHRI. KEVIPHELIE THEUNUO
PRESENTLY SERVING AS ABI
4TH NAP BN.
THIZAMA
KOHIMA

41:SHRI. AVILIE KEDITSU
PRESENTLY SERVING AS ABI
4TH NAP
ATTACHED TO PHQ RO
KOHIMA

42:SHRI. NEITSO SEUIE
PRESENTLY SERVING AS ABI
POLICE TRAINING SCHOOL (PTS) CHUMUKEDIMA
DIMAPUR

43:SHRI. L. PITONGSE SANGTAM
PRESENTLY SERVING AS ABI
POLICE TRAINING SCHOOL(PTS) CHUMUKEDIMA
DIMAPUR

44:SHRI. P. TOCHUMONG TIKHIR
PRESENTLY SERVING AS ABI
12TH IR BN.
LONGLENG

45:SHRI. MOSA ZELIANG
PRESENTLY SERVING AS ABI
7TH NAP ATTACHED TO PSA TO TR ZELIANG

46:SMTI. KEZEINHUNO
PRESENTLY SERVING AS ABI
8TH NAP BN.
NALTOQA
ZUNHEBOTO

47:SHRI. MOAREN CHANKIJA
PRESENTLY SERVING AS ABI
POLICE CENTRAL STORE
CHUMUKEDIMA

DIMAPUR

48:SHRI. MEDEMSUNUP
PRESENTLY SERVING AS ABI
12TH IR BN.
LONGLENG

49:SHRI. KAWATO
PRESENTLY SERVING AS ABI
8TH NAP
NALTOQA
ZUNHEBOTO

50:SHRI. W. TIATEMJEN AO
PRESENTLY SERVING AS ABI
11TH IR BN.
ANOI MON

51:SHRI. SURUHOTSUI CKG
PRESENTLY SERVING AS ABI 11TH IR
BN
. ABOI MON

52:SHRI. M MICHAEL YANTHAN
PRESENTLY SERVING AS ABI
7TH NAP BN.
THIZAMA
KOHIMA

53:SHRI. NGAMPONG KONYAK
PRESENTLY SERVING AS ABI
DEF MON

54:SHRI. SEYIEVIZO JOHN
PRESENTLY SERVING AS ABI
3RD NAP BN.
TUENSANG

55:SHRI. NEICHUZO RIO
PRESENTLY SERVING AS ABI
14TH IR BN.
KIPHIRE

56:SHRI. KECHANGULIE THEUNUO
PRESENTLY SERVING AS ABI
9TH IR BN.
SAIJAN
PEREN

57:SHRI. KHRIENGULIE
PRESENTLY SERVING AS ABI
8TH NAP BN.
NALTOQA
ZUNHEBOTO

58:SHRI. SHILULEMBA AO
PRESENTLY SERVING AS ABI
15TH IR BN.
CHUMUKEDIMA

59:SHRI. T. ETSUTHUNG LOTH
PRESENTLY SERVING AS ABI
2ND NAP BN.
AOLICHEN
MOKOKCHUNG

60:SHRI. NEIKHROZO MERO
PRESENTLY SERVING AS ABI
15TH IR BN.
CHUMUKEDIMA

61:SHRI. THUYESWUYI CKG
PRESENTLY SERVING AS ABI
5TH NAP BN.
PHEK

62:SHRI. ATUO SOLO
PRESENTLY SERVING AS ABI
2ND NAP BN.
AOLICHEN
MOKOKCHUNG

63:SHRI. TOVIHO SEMA
PRESENTLY SERVING AS ABI
COMMISSIONER OF POLICE
DIMAPUR

64:SHRI THOMAS MAGH
PRESENTLY SERVING AS ABI
9TH IR BN.
SAIJAN PEREN

65:SHRI. VIKATO T. SEMA
PRESENTLY SERVING AS ABI
5TH NAP ATTACHED TO IG (CID)
KOHIMA

66:SHRI. KHRIELATUOLIE PIENYU
PRESENTLY SERVING AS ABI
5TH NAP ATTACHED TO IG (CID)
KOHIMA

67:SHRI. IMTISUNUP AO
PRESENTLY SERVING AS ABI
NAPTC CHUMUKEDIMA DIMAPUR

68:SHRI. MULUTO VESWUH
PRESENTLY SERVING AS ABI
14TH IR BN.
KIPHIRE

69:SHRI. ESACA ASSUMI
PRESENTLY SERVING AS ABI
4TH NAP C/O BPRIS CELL
PHQ

70:SHRI. PACHIO
PRESENTLY SERVING AS ABI
1ST NAP BN
CHUMUKEDIMA
DIMAPUR

71:SHRI. KEZHALETUO SECHIE
PRESENTLY SERVING AS ABI
13TH IR BN.
TULI-YAJANG

72:SHRI. AKHRIEBU SAVINO
PRESENTLY SERVING AS ABI
9TH IR BN.
SAIJAN PEREN

73:SHRI. TEKATEMJEN
PRESENTLY SERVING AS ABI
DEF
MOKOKCHUNG

74:SHRI. S. EVAI PHOM
PRESENTLY SERVING AS ABI
DEF
TUENSANG

75:SMTI. K. IMLIRENLA
PRESENTLY SERVING AS ABI

13TH NAP (IR) ATTACHED TO NAPTC
CHUMUKEDIMA
DIMAPUR

76:SHRI. N ACHUMO HUMTSOE
PRESENTLY SERVING AS ABI
15TH BN.
CHUMUKEDIMA
DIMAPUR

77:SHRI. SIHU SEMOU ANGAMI
PRESENTLY SERVING AS ABI
DEF ZUNHEBOTO

Advocate for : T. KOZA

Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND
AND 77 ORS

BEFORE

HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

For the petitioners : Mr. A. Zho, Advocate.
(in all the three writ petitions)

In WP(C) 222/2022

For State respondent Nos.1 and 3 : Mr. E. Thiba Phom, Govt. Advocate.
For State respondent nos.2, 4 and 5 : Mr. T.B. Jamir, Special Counsel.

In WP(C) 232/2021

For State respondent Nos.1, 2 and 3 : Mr. E. Thiba Phom, Govt. Advocate.
For respondent nos.7, 11, 22, 23,
27, 41, 44 and 54 : Mr. Wati Jamir, Advocate.

In WP(C) 237/2021

For State respondent Nos.1, 2 and 3 : Mr. E. Thiba Phom, Govt. Advocate.

Date of hearing : 10.09.2025.

Date of judgment : 12.09.2025.

JUDGMENT AND ORDER
(CAV)

(K.R. Surana, J)

Heard Mr. A. Zho, learned counsel for the petitioners in all the three writ petitions. In connection with W.P.(C) No. 222/2022, heard Mr. E. Thiba Phom, learned Govt. Advocate, appearing for the State respondent nos. 1 and 3 and Mr. T.B. Jamir, learned special counsel for the State respondent nos. 2, 4 and 5. In connection with W.P.(C) No. 232/2021, heard E. Thiba Phom, learned Govt. Advocate, appearing for the State respondent nos. 1, 2 and 3, and Mr. Wati Jamir, learned counsel for the private respondent nos. 7, 11, 22, 23, 27, 41, 44 and 54. None appears for other private respondents. In connection with W.P.(C) No. 237/2021, heard E. Thiba Phom, learned Govt. Advocate, appearing for the State respondent nos. 1, 2 and 3. None appears for other private respondents.

Brief facts of the case:

2) The petitioners are all police personnel in the Unarmed Branch of Nagaland Police. They are aggrieved by limited scope of promotional avenues for police personnel from Unarmed Branch and project that while only few limited police personnel from Unarmed Branch have received promotion more than once in their service career, for most of the Unarmed Branch personnel, they have received only one promotion in their career. It is projected that their counterparts, who were recruited in the same year and under same selection process, but posted under the

Armed Branch, have got multiple promotions and have even reached the rank of Deputy Superintendent of Police in Nagaland Police and thus, are several rank superior to the petitioners. Accordingly, by filing W.P.(C) Nos. 232/2021 and 237/2021, the petitioners have, *inter alia*, prayed for a direction upon the State respondents to prepare a combined seniority list of both the Armed Branch and Unarmed Branch of Nagaland Police and for other consequential reliefs. However, by filing W.P.(C) No. 222/2022, the petitioners have questioned the legality of Rule 33(b) of Part-III of Nagaland Police Manual and have also prayed for quashing the said provision.

Submissions of the learned counsel for the petitioners:

3) The learned counsel for the petitioners has submitted that for convenience of the Court, and in consonance with the statements made in the writ petition, he has prepared and produced a chart, containing the position of the petitioners vis-à-vis the private respondents in W.P.(C) 232/2021, projecting as follows:-

- a. The petitioner nos. 1, 2, 9 and 10 had got promotion from the post of Sub-Inspector after 14 years to the post of Unarmed Branch Inspector; the petitioner nos. 3, 4, 5, 7, 8, 11 to 17 had been promoted after 15 years; and the petitioner no. 6 got his promotion after 16 years.
- b. From the said chart, comparing the position of the petitioners with the private respondent nos.6 to 15 in W.P.(C) 232/2021, it has been submitted that the respondent nos. 6 to 10, 13, 14 and 15 got their first promotion to the post of Armed Branch Sub-

Inspector after 3 years; the private respondent nos. 11 and 12 got promoted to the post of Armed Branch Sub-Inspector after 2 years.

c. It has been projected that all the said respondents got their second promotion to the next higher post of Armed Branch Inspector after 7 years of their first promotion.

d. From the said chart, it is further projected that the respondent no.6 got his next and third promotion to the post of Deputy Superintendent of Police after 12 years of his first promotion; the respondent nos. 8, 9, 10, 13, 14, 15, got their next promotion after 13 years; and the respondent nos. 7, 11 and 12 got their next promotion after 15 years.

4) It has been submitted that the petitioners as well as the private respondents in the said W.P.(C) 232/2021, had applied for being appointed as Constables in the Nagaland Police pursuant to advertisement dated 23.03.1999. However, upon selection, while the police authorities had posted the petitioners in the Unarmed Branch but posted the private respondents therein were arbitrarily posted in the Armed Branch of Nagaland Police.

5) It has also been submitted that it was not disclosed in the recruitment advertisement that the police authorities will, at their discretion, appoint selected candidates in two different branches of Nagaland Police, i.e. Armed Branch and Unarmed Branch. It was further submitted that as per his instructions, the meritorious selected candidates were posted in desk jobs by classifying them as Unarmed Branch Police

personnel and those who were less meritorious, were posted as personnel in the Armed Branch. It has been submitted that while applying for recruitment to the post, the petitioners had not given any preference for being appointed in the Unarmed Branch.

6) It has also been submitted that the Nagaland Police Manual was not published in the Nagaland Gazette and was not given wide publicity and accordingly, it has been submitted that the Nagaland Police Manual itself was *non est* and *void ab initio* in the eye of law. It has been submitted that there being no rules governing employment and service police personnel of the Armed Branch and Unarmed Branch of Nagaland Police, the classification of police personnel as police in Armed Branch and Unarmed Branch was illegal and thus, the entire Nagaland Police Manual was not sustainable. In the said regard, by referring to the case of *Collector of Central Excise v. New Tobacco Co. & Ors., (1998) 8 SCC 250*, decided by the Supreme Court of India, it has been submitted that as per the well settled legal proposition laid down in the said case, the State respondents were not only required to publish the entire Nagaland Police Manual in the Nagaland Gazette, but it was also incumbent on part of the State respondents to give wide publicity to the same and invite objections or comments from public, and in the absence of compliance of those essential ingredients, the Nagaland Police Manual as well as Clause 33(b) of Part-III of the said Manual was liable to be declared as illegal and *ultra vires* and were liable to be set aside and quashed. Accordingly, it has also been submitted that consequential directions also should be issued upon the State respondents to prepare a common seniority list effective from the respective dates when the

petitioners and the private respondents in W.P.(C) 232/2021 and W.P.(C) 237/2021, had entered in service in Nagaland Police with further directions to the State respondents to give consequential benefit of promotion to the police personnel in Unarmed Branch, including the petitioners.

Submissions by the learned counsel for the respondents:

7) Per contra, the learned counsel for the respondents as well as the learned special counsel for the Home Department, and Govt. Advocate for the State have all opposed the prayers made in all the writ petitions. It has been submitted that these writ petitions are misconceived. It has been submitted that the petitioners in W.P.(C) 222/2022, have annexed a portion of the photocopy of the Gazette notification dated 31.08.2018, which discloses that by a Notification dated 08.03.2010, in exercise of the powers conferred under the Article 309 of the Constitution of India, the Governor of Nagaland was pleased to notify the Nagaland Police Manual containing 6 (six) parts for regulating the recruitment and conditions of the service of personnel appointed to the Nagaland Police Force. Thus, it had been submitted that notwithstanding that the Nagaland Police Manual had been notified on 08.03.2010, the notification was published in the Nagaland Gazette on 31.08.2018. It was also submitted that the said Manual was followed since it was notified on 08.03.2010 and therefore, the petitioners do not suffer any prejudice.

8) It has been submitted that in W.P.(C) 232/2021, the petitioners have annexed a copy of the order dated 15.03.2017, passed by this Court in W.P.(C) 129(K)/2015, where reference has been made to

Rule 33(b) of the Nagaland Police Manual Part-III. Therefore, the petitioners in these three writ petitions do not have any ground or basis to dispute the existence of Nagaland Police Manual. In this regard, it has been submitted that Shri Bendangsangba Jamir, the petitioner no. 9 in W.P.(C) No. 129(K)/2015 is arrayed as the petitioner no. 12 in W.P.(C) 232/2021 and that in W.P.(C) No. 129(K)/2015, the Nagaland Police Manual has been referred to. Therefore, it has been submitted that all the three writ petitions deserve to be dismissed.

Discussion and decision:

9) Considered the materials available in the file of these three writ petitions and also considered the submissions made by the learned counsel for all appearing parties.

10) Pleadings available on record: In the proceedings of WP(C)222/2022, the State respondent nos. 2, 4 and 5 have filed a joint affidavit-in-opposition against which the petitioners have filed their affidavit-in-reply. In the proceedings of W.P.(C) 232/2021, the respondent nos. 1, 2 and 3 had filed a joint affidavit-in-opposition, against which the petitioners have filed their affidavit-in-reply; the private respondent nos. 7, 11, 22, 23, 27, 41, 44, 54 and 66 have filed a joint affidavit-in-opposition against which the petitioners have filed their affidavit-in-reply. In the proceedings of WP(C)237/2021, no affidavit-in-opposition has been filed.

11) The prayers made in the three writ petitions are as follows:

- a. *In WP(C)222/2022, the petitioners have prayed for striking down the provisions of Rule 33(b) being the general rules for*

promotions of Non-Gazetted Officers under Part-III of the Nagaland Police Manual and direct the respondent authorities to maintain common inter se seniority list on the basis of seniority in the grade of Sub-Inspector of Police.

b. *In WP(C)232/2021, the petitioners have prayed for a direction upon the respondent authorities to maintain a common inter se seniority list on the basis of seniority in the grade of Sub-Inspector of Police; to implement the State Government Office Memorandum dated 09.03.2010 while determining the seniority in the grade of Inspector of Police; quash and set aside the impugned Memorandum dated 14.03.2014 by which a distinction has been made for the first time between UB and AB Inspectors and Notification dated 18.06.2020 by which the ratio of 28:22 between AB and UB Inspectors has been laid down; quash and set aside the promotion/impugned Notification dated 22.01.2016 in respect respondent nos. 5, 18 & 19 and promotion/ Notification dated 28.06.2021 in respect of respondent nos. 6, 20 and 21; and quash and set aside the impugned tentative seniority list circulated vide O.M. dated 09.04.2021 and ABI/UBI in the ratio of 28:22.*

c. *In WP(C)237/2021, the petitioners have prayed for a direction upon the respondent authorities to maintain a common inter se seniority list on the basis of seniority in the grade of Sub-Inspector of Police; to implement the State Government Office Memorandum dated 09.03.2010 while determining the seniority*

in the grade of Inspector of Police; quash and set aside the impugned Memorandum dated 14.03.2014 by which a distinction has been made for the first time between UB and AB Inspectors and Notification dated 18.06.2020 by which the ratio of 28:22 between AB and UB Inspectors has been laid down; quash and set aside the promotion/impugned Notification dated 18.06.2020; quash and set aside the impugned Notification dated 23.06.2020 in respect private respondent nos. 5 and 6; quash and set aside the impugned Notification dated 28.06.2021 in respect of the private respondent nos. 4, 7 and 8.

12) The State of Nagaland has an enactment called the "Nagaland Armed Police Act, 1966. None of the learned appearing counsel could inform the Court if there is any other Police Act in force in the State of Nagaland. It appears that the said Act had received the assent of the Governor of Nagaland on 24.11.1966 and published in the Nagaland Gazette- Extraordinary, dated 26.11.1966.

13) It is noted that in the order dated 15.03.2017, passed by this Court in W.P.(C) 129(K)/2015, Nagaland Police Manual has been referred to. Therefore, as on 15.03.2017, the said Manual was being acted upon in the State of Nagaland.

14) As per the copy of notification that is annexed as Annexure-Lto W.P.(C) 222/2022, discloses as follows:-

The Nagaland Gazette

31, August, 2018

PART-IIA

NOTIFICATION

Dated Kohima, the 8th Mar' 2010

NO.POL-I/ESTT/99/2003:: In exercise of the powers conferred under the Article 309 of the Constitution of India, the Governor of Nagaland is pleased to notify the Nagaland Police Manual containing 6 (six) parts for regulating the recruitment and conditions of the service of personnel appointed to the Nagaland Police Force.

Sd/

SASHINARO

Deputy Secretary to the Govt. of Nagaland.

15) As per Rule 1(ii) of Part-III of the Nagaland Police Manual, the Armed Branch comprises the following, viz., (a) A force specially trained in the quelling of disturbances and quasi-military duties, known as the Armed Police Reserve; (b) A force for the supply of guards and armed escorts; (c) Certain miscellaneous personnel, as armourers and buglers; and (d) An ordinary reserve in the rank of Constable, to provide for leave, sickness, training and other vacancies.

16) As per Rule 1(iii) of Part-III of the Nagaland Police Manual, the scope of Unarmed Branch Companies are as follows, viz., (a) The staffs of investigating centers and outpost, including beat posts; (b) The staffs of Court Officers, including Constables provided for guarding prisoners in the Court lock-up, or property in the Court Malkhana; (c) A force specially trained in Traffic Regulation and Surveillance; (d) The Criminal Investigation Department; (e) Certain miscellaneous personnel, such as orderlies and patrol parties; and (f) As ordinary reserve, in the rank of Constable, to provide for leave, sickness, training and other vacancies.

17) Thus, from a conjoint reading of Rule 1(ii) and Rule 1(iii)

of Part-III of the Nagaland Police Manual, as referred hereinbefore, the duties entrusted to the personnel of the Unarmed Branch Police personnel are not similar to the duties entrusted to the police personnel in the Armed Branch. Hence, in these writ petitions, the petitioners have not been able to successfully show and/or demonstrate that the nature of job that are performed by the Armed Branch and the Unarmed Branch are similar and therefore, the Court is constrained to hold that no case of discrimination by the State has been made out by the petitioners.

18) It is seen from the copy of Notification No. POL-1/ESTT/22/2011 dated 18.06.2020 [Annexure-I to WP(C) 222/2022] that the Governor of Nagaland had been pleased to accord approval for maintaining the 28:22 ratio between Armed Branch Inspectors and Unarmed Branch Inspector for promotion to the grade of Deputy Superintendent of Police and equivalent grade out of 50% promotion quota. It is found mentioned in the said notification that the same was issued after Cabinet approval.

19) Contrary to the projections made by the petitioners that they all had applied for being appointed in the Nagaland Police, on a perusal of the advertisement bearing No. PHQ(B-I)1/IRB/99 dated 23.03.1999 [Annexure-A to WP(C) 232/2021], it is seen that vide the said advertisement, applications were invited from male indigenous inhabitants of Nagaland to fill up vacancies in the rank of Sub-Inspector, Assistant Sub-Inspector and Havildar under the direct quota in the India Reserve Battalion and also some posts under Nagaland Police. Therefore, the submissions made by the learned counsel for the petitioners that they

were arbitrarily placed in the Unarmed Branch is found contrary to the record as in the said advertisement it has merely been stated that there were some vacancies in the Nagaland Police to be filled up, without specifying for which posts the said advertisement had been issued. Thus, the petitioners had joined in service in the Nagaland Police with full knowledge that they could be employed in any of the vacancies that then existed in the Nagaland Police. Therefore, the deployment of the petitioners in the Unarmed Branch was duly accepted by the petitioners and was never questioned and/or objected to by the petitioners either before or immediately after joining in their respective posts in the Unarmed Branch of Nagaland Police. Thus, the petitioners had enjoyed working in their respective places of posting for several years without any demur. Therefore, by applying the principles of waiver, estoppel and acquiescence, the Court is of the considered opinion that it is not open to the petitioners to question their appointment in the Unarmed Branch of Nagaland Police, which according to the petitioners, was sometime in the year 1999.

20) The learned counsel for the petitioners has cited the case of *Collector of Central Excise (supra)*. The said case is not found to apply on the facts and circumstances of the present case or help the petitioners in any manner. In factual matrix on which the said case was decided is that the respondents therein, being the manufacturer of cigarettes, were required to pay central excise at the rate that was fixed by notification dated 11.03.1978. The said rates were rescinded by notification dated 30.11.1982 and new rates were levied. The respondent before the Supreme Court of India was issued show cause notice to pay the

differential amount of central excise. The demand was upheld by the Collector (Appeals). However, the Tribunal held that publication cannot be equated to mere printing and it is availability of printed materials to general public that constitutes required publication. Thus, in the context of Central Excise notification, the Supreme Court of India had held to the effect that "Central Excise notification" can be said to have been published when it is so issued as to make it known to public, except when it provided otherwise. The provision of Section 38 of the Central Excise Act, 1944 mandates that notifications should be published in Gazette. Therefore, the said judgment, held in the context of publication of Central Excise notification, cannot be applied to publication of a Gazette notification regarding exercise of power of the Governor of the State under Article 309 of the Constitution of India regarding notifying of the Nagaland Police Manual. The existence and applying of the Nagaland Police Manual was even prior to the issuance of notification dated 30.08.2018, as is evident from the order dated 15.03.2017, passed by this Court in W.P.(C) 129(K)/2015.

21) The learned counsel for the petitioners has not been able to show any provisions in the relevant Act constituting and/or governing the Police establishment in the State of Nagaland, which mandates issuance of Gazette Notification to bring into force the Police Manual for the State of Nagaland, and by giving it wide publicity.

22) In light of the issue raised by the petitioners, in a quest to find an answer, a little academic research was done by us. Just for illustrative and academic purpose, it may be mentioned here that there is

no provision in the Indian Penal Code providing that the said Act would come into effect only after its publication in the official Gazette. Moreover, Clause (3) of Article 13 of the Constitution of India "law" includes, amongst others, "rule", but the said Article does not mandate that Rules must mandatorily be notified in the Official Gazette. From the internet and from the EBC Reader website, information could not be gathered if there is any enactment in the Country regarding Gazette of India, However, it is seen that there is information regarding three Acts relating to Gazette in the internet, they are (i) Official Gazettes Act, 1863, which was repealed by Act 1 of 1938; (ii) The Jammu and Kashmir Government Gazette Act, 1945 (sanctioned by the then Maharaja-in-Council), and (iii) The Rajasthan Gazette (Rajpatra) Act, 1956. The said information was shared with the learned counsel for the parties in course of hearing, but the attention of the Court would not be drawn to existence of any such Act in the State of Nagaland. The purpose of examining such Acts was to see if it is mandatory that for a "law" within the meaning of Article 13 of the Constitution of India to be in force, it has to be published in the official Gazette, but at least the said three Acts do not make it mandatory that all laws, to be brought in force, were to be published therein. However, it is clarified that this is a mere passing observation, made with little research and therefore, the observations made in this paragraph is not intended to be a conclusive finding of the Court and the point is left for being decided in a more appropriate case.

23) Be that as it may, the petitioners have not been able to demonstrate that vide employment advertisement dated 23.03.1999, they were enticed to apply for only one class of post. The petitioners have also

failed to demonstrate that they were arbitrarily and without any basis, posted in the Unarmed Branch of Nagaland Police. The petitioners have also failed to show that they had suffered any prejudice merely because the State had been following the Part-III of the Nagaland Police Manual even prior to the publication of a notification in the Nagaland Gazette on 31.08.2018 and appointed them in Unarmed Branch of Nagaland Police. The petitioners have also failed to show that in view of the nature of work assigned to the Armed Branch and Unarmed Branch of Nagaland Police, the ratio of promotion contained in the notification dated 18.06.2020 [Annexure-I to WP(C) 222/2022] was illegal, bad or arbitrary in any manner whatsoever. Moreover, the petitioners have also failed to demonstrate why a common gradation list and/or *inter se* seniority list for police personnel in the rank of Sub-Inspector and above in respect of two separate and distinct branches of the Nagaland Police.

24) This Court, in exercise of writ jurisdiction under Article 226 of the Constitution of India, would not undertake the task of examining as to whether the ratio of promotion in two branches of Nagaland Police, being 28:22 was right or wrong or there could be another ration that would be better. That exercise is one of the essential functions of the State Administration to determine how the promotions were to be made from two different cadres, being Armed Branch and Unarmed Branch of Nagaland Police. The Court does not have the expertise to venture to that arena, which is reserved for the Executive. Therefore, the Court would not impose its wisdom on the decision of the State, which is demonstrated to be backed by a Cabinet decision of the State, as mentioned hereinbefore.

25) Therefore, in light of the discussions above, the Court is constrained to hold that the petitioners have not been found entitled to any of the reliefs claimed in all the three writ petitions.

26) Accordingly, these writ petitions fail and the same are dismissed, leaving the parties to bear their own cost.

JUDGE

JUDGE

Comparing Assistant