

(2021) 06 MAN CK 0018

In the Manipur High Court

Case No : Writ Petition (C) No. 418 Of 2021, 938 Of 2019, MC(W.P. (C)) No. 9 Of 2020

Irengbam Bijenkumar Singh & Ors

APPELLANT

Vs

State Of Manipur & Ors

RESPONDENT

Date of Decision : 17-06-2021

Acts Referred:

Citation : (2021) 06 MAN CK 0018

Hon'ble Judges : Ahanthem Bimol Singh, J

Bench : Single Bench

Advocate : HS. Paonam, M. Hemchandra, Kh. Tarunkumar, Lenin Hijam

Final Decision : Disposed Of

Judgement

Ahanthem Bimol Singh, J

[1] Heard Mr. HS. Paonam, learned senior counsel and Mr. M. Hemchandra, learned senior counsel appearing for petitioners, Mr. Lenin Hijam,

learned Addl. Advocate General appearing for the respondents and Mr. Kh. Tarunkumar, learned counsel appearing for the applicant in MC(WP(C))

No.9 of 2020. As agreed by all the counsel appearing for the parties, the present two writ petitions and the miscellaneous application are heard jointly

and being disposed of by this common order. [1]. The case of the writ petitioners is that the Government of Manipur issued an advertisement

No.MFFR/2016 dated 16.08.2016 notifying 59(fifty- nine) vacant posts of Forester falling in direct recruitment quota for filling up by direct

recruitment. Pursuant to the said advertisement, a number of eligible candidates including the present petitioners applied for the said advertised posts.

[2]. The written test and viva voce test was conducted on 27.11.2016 and

10.12.2016 respectively and proceeding of the said DPC was submitted to the Administrative Department on 30.12.2016. Thereafter the Government convey WP(C) No.418 Page 4 is approval to the proceeding of the DPC on the same day, i.e., on 30.12.2016. The result of the said DPC could not be declared due to the election model code of conduct which was imposed in the state of Manipur w.e.f 04.01.2017 in connection with the 11th General Assembly Elections.

[3]. Before the Forest Department could announced the result of the said DPC, the Department of Personnel and Administrative Reforms (Personnel

Division) directed the administrative department to cancel the proceeding of the said DPC by a letter dated 05.12.2017. Pursuant to the said letter of

the DP dated 05.12.2017, the Deputy Secretary (Forest and environment), Government of Manipur, issued an order dated 16.12.2017 declaring the

proceeding of DPC for recruitment of Foresters as null and void and thereafter directing the Principal Chief Conservator of Forests, Government of

Manipur, to hold fresh appointment/recruitment of the said vacant posts within a period of 2 (two) months from the date of issue of the said order.

[4]. The said letter dated 16.12.2017 declaring the proceeding of the DPC for recruitment of Foresters as null and void was challenged by certain

candidates including some of the present writ petitioners by filing WP(C) No.70 of 2019 and other connected cases before this Court. In WP(C)

No.70 of 2019, this Court passed an order on 11.03.2019 directing the State Government to reconsider the aforesaid order dated 16.12.2017cancelling

the recruitment process in respect of the 71(seventy-one) posts of forester and thereafter to pass an appropriate order in accordance with law for

appointment of the petitioners as Forester within a period of 3(three) months.

[5]. In purported compliance with the aforesaid order of this Court, the Under Secretary of Forest and Environment Department issued an order

WP(C) No.418 Page 5 dated 28.05.2019 reaffirming its earlier decision for going ahead with fresh recruitment in respect of the 93(ninety-three)

vacant posts of forester including the earlier 59(fifty-nine) advertised posts of forester. Subsequently the Under Secretary (Forest and

Environment),Government of Manipur, issued a letter dated 04.11.2019 addressed to the Principal Chief Conservator of Forest directing the latter to

take necessary action for fresh recruitment in respect of the 93(ninety three)

posts of forester in the forest department.

[6]. Having been aggrieved, the present petitioners approached this Court again by filing WP(C) No. 930 of 2019 assailing the aforesaid order dated

16.12.2017 cancelling the recruitment process of 71(seventy one) posts of Foresters and letter dated 04.11.2019 of the Government for initiating fresh

recruitment process to fill up the 93 vacant posts of forester including the earlier 59 advertised posts.

In W.P. (C) No. 938 of 2019, this Court passed an interim order dated 20.11.2019 suspending the impugned order dated 28.05.2019 and impugned

letter dated 04.11.2019 and the said interim order is still in operation.

[7]. It has been submitted by the learned senior counsel appearing for the petitioners as well as by the learned Addl. AG that the only reason for

cancelling the earlier DPC proceeding for recruitment of 71(seventy one) foresters was because of the excess recommendation made by DPC

recommending 71 candidates as against only 59(fifty nine) advertised posts.

[8]. During the pendency of the aforesaid writ petition, the Principal Chief Conservator of Forest, Government of Manipur, wrote a letter dated

05.02.2021 to the Administrative Department highlighting the recruitment WP(C) No.418 Page 6 process in respect of 71(seventy one) post of

foresters and filling of the several writ petitions in connection with the said recruitment process. In the said letter, the Principal Chief Conservator of

Forest specifically pointed out that the total sanction post of Foresters in the Manipur Forest Department is 186(one eighty-six). Out of the said 186

posts, 93 posts are to be filled up by direct recruitment and the remaining 93 posts are to be filled up by promotion. It was also pointed out that except

for two incumbents in the promotion quota, all the remaining 184 posts of forester in Manipur Forest Department are presently lying vacant due to

which the department is facing a lot of inconvenience and difficulties in carrying out important duties like patrolling of forest, prevention of fire,

eviction of forest encroachment, etc. In view of the above, the principal Chief Conservator of forest submitted a proposal to the Government to

approach this Court by filling an affidavit seeking leave from the Court to allow the Government to fill up only 59 posts of forester which was earlier

advertised by the Department. Subsequently the State Government by a letter dated 22.02.2021 conveyed the approval of the Government to

approach this Court seeking leave to allow the Government to declare result of the DPC for recruitment of only 59(fifty-nine) advertised posts of forester at the earliest.

[9]. On having knowledge about the subsequent development of the Government taking a decision to declare the result of the DPC for recruitment of only 59 advertised posts of forester, WP(C) No.418 of 2021 was filed before this Court with a prayer for directing the State Government to declare the result of the recruitment process for appointment of 59(fifty-nine) Foresters in the Forest Department pursuant to the advertisement dated WP(C) No.418 Page 7 16.08.2016 and to consider the cases of the petitioners for appointment as Foresters in the Forest Department on the basis of the result of the said recruitment process.

[10]. The learned senior counsel appearing for the petitioners vehemently submitted that the State Government simultaneously advertised a number of vacant posts in Forest Department including Deputy Rangers, Forest Guard and Foresters and the recruitment process were also carried out simultaneously. In respect of the Deputy Rangers and Forest Guards, the State Government has already declared the result and issued appointment orders. However, in respect of the foresters, the State Government arbitrary takes a decision to cancel the recruitment process only on the ground that DPC recommended excess number of candidates as against the advertised post. It has also further been submitted that in view of deficiency of the staff in the grade of forester, the State Government has taken a decision to declare the result of the recruitment process in respect of only 59 advertised posts of foresters and to make appointment thereafter on the basis of the result of the said DPC. Accordingly, it has been submitted that the present writ petitions can be disposed of by directing the State Government to declare the result of the DPC for recruitment of only 59(fifty-nine) advertised posts of forester and to make necessary appointment thereafter within a stipulated period.

[11]. Mr. Lenin Hijam, learned Addl. AG fairly submitted that the Government has taken the decision for cancellation of the recruitment process of the foresters on the basis of the report submitted by the Special Investigation Team wherein it is clearly indicated that the DPC recommended excess number of candidates as against the advertised posts. It has also WP(C) No.418

Page 8 further been submitted by the learned Addl. AG that because of the deficiency of the staff in the grade of forester and the difficulties faced by the department because of the deficiency of the such staff, the State Government has taken a policy decision to declare the result of the DPC proceeding in respect of only 59(fifty nine) advertised post of the foresters. It has further been submitted that there will not impediment in law in allowing the Government to declare the result of the DPC in respect of only the 59(fifty- nine) posts of forester in the peculiar situation of the present cases and to mitigate the difficulties and hardship faced by the department and that such decision is only aone time measure and shall not be made as a precedent in future.

[12]. Mr. Kh. Tarunkumar, learned counsel appearing for the applicant in MC(W.P. (C)) No. 9 of 2020 submitted that out of the 3(three) applicant 2(two) of them have already failed in recruitment process before facing the viva voce test and the other remaining applicant appeared and faced the viva voce test. It has also been submitted that there are lots of irregularities and illegalities in process of selection of the foresters and accordingly, the Government has taken a decision to declare the recruitment process as null and void and to cancel the same. As the W.P. (C) No.938 of 2019 has been filed assailing the aforesaid decision of the Government, the applicants are desirous of being impleaded as respondents in the said writ petition and to contest the same.

[13]. At this juncture, this Court is of the considered view that since the Government has taken a subsequent decision to declare the result of the DPC in respect of the advertised posts of forester, this Court is not required WP(C) No.418 Page 9 to consider and decide the correctness and legality of the Government order dated 16.12.2017 cancelling the recruitment process of Foresters and letter dated 04.11.2019 for initiating fresh recruitment process. Moreover, the present applicants will have ample opportunity to challenge any step taken by the Government by filing appropriate proceedings if they feel aggrieved by any of the decisions taken by the Government. In this view of the matter, the prayer made by the applicants for impleading them as respondents in the writ petition is rejected as this Court is of the view that they are neither proper nor necessary parties in present writ proceedings. However it is made clear that if the present applicants feel

aggrieved by the result of the said DPC or by any subsequent decision of the Government, they are at liberty to assail the same by filing appropriate proceedings.

[14]. After hearing the counsel appearing for the parties, this Court is of the considered view that State Government has taken the decision to cancel

the proceeding of the DPC for recruitment of the 71 foresters in the Manipur Forest Department only on the basis of report made by the Special

Investigation Team wherein it is specifically mentioned that the DPC recommended excess number of candidates as against the advertised posts. In

the additional affidavit filed by the State Government in connection with WP(C) No.418 of 2021, State Government has specifically stated that there

was no irregularity and illegality in the recruitment process of foresters whatsoever except for the report of the Special Investigation Team that the

DPC recommendate 71 candidates which is in excess of the 59 (fifty-nine) advertised posts. Subsequently, the Government has taken a decision to

declare the result of the DPC proceeding in respect of only 59 (fifty nine) WP(C) No.418 Page 10 advertised post of foresters and to appoint the

recommended candidates on the basis of the result of the said DPC in order to mitigate the difficulties and hardship faced by the Department because

of the shortage of foresters in the forest department.

[15]. In view of the above, the present writ petitions are disposed of with the following directions:-

(I) . The State Government can declare the result of the DPC held pursuant to the advertisement dated 16.08.2016 for recruitment of only 59 (fifty-

nine) posts of forester in Manipur Forest Department within a period of 2 (two) weeks from today; and (II). the State Government is further directed

to consider for giving appointment to the successful candidates in respect of the 59 (fifty-nine) advertised posts of forester within a period of one

month from date of the announcement of the result.

With the aforesaid directions, the present writ petitions are disposed of without any order as to cost.

A copy of this order be furnished to all the counsel appearing for the parties through their respective e-mail or whatsaAp.