

(2021) 03 MAN CK 0048
In the Manipur High Court
Case No : Writ Petition (c) No. 93 Of 2021

Kirankumar Laishram

APPELLANT

Vs

State Of Manipur & 3 Others.

RESPONDENT

Date of Decision : 01-03-2021

Acts Referred:

Citation : (2021) 03 MAN CK 0048

Hon'ble Judges : Ahanthem Bimol Singh, J

Bench : Single Bench

Advocate : Babita Th, S Bijita Devis Bijita Devi, S Bijita Devi, A Mohendro, L Sillori, Kh Lupenjit, David Boon, Ayam Romesh

Judgement

[1] Heard Mr. Th. Babita, learned counsel appearing for the petitioner.

[2] Issue notice, returnable within 4(four) weeks.

[3] Mr. K. Jagat, learned Government Advocate accepts notice on behalf of respondents No. 1 and 2 and Mr. A. Mohendro, learned counsel accepts

notice on behalf respondent No.3, hence, no formal notice is called for in respect of the said 3(three) respondents.

[4] Petitioner is to take steps for service of notice upon the respondent No.4 by speed post within 3(three) days.

[5] It is submitted by Mr. A. Mohendro that he is yet to receive the complete set of writ petition and accordingly, the learned counsel appearing for the

petitioner assured that she will supply a complete set of the writ petition during the course of the day.

The learned counsel prays for passing an interim order. In support of such prayer, it is submitted that petitioner is the senior most Assistant Engineer in

the PHE Department and respondents No. 3 and 4 are junior to him in grade of

Assistant Engineer. Moreover the petitioner as well as the private respondents are holding the post of Executive Engineer on in charge basis only. It is also submitted that the petitioner is now eligible for regular promotion to the post of Executive Engineer.

[6] It is further contented by the counsel for the petitioner that the impugned order dated 04.01.2020 and 25.08.2020 allowing the private respondents

No.3 and 4 to hold the charge of S.E has been issued without at all considering the case of the petitioner and said order have been issued not only in

violation of the office memorandum dated 03.10.2020 issued by the Government for making appointment in charge basis to all posts under the State

Government but also in violation of the Art. 14 and 16 of the constitution.

[7] In earlier occasion also petitioner filed a writ petition being W.P. (C) No.566 of 2020 praying for quashing and setting aside the Government order

dated 04.01.2020 and 25.08.2020 allowing the private respondents No.3 and 4 to hold the charge of S.E. The said writ petition was disposed of by this

Court on 17.12.2020 by giving liberty to petitioner to make a representation to the competent authority and also directing the authority to consider and

dispose of the said representation on merit expeditiously. In compliance of the said order of this Court, the petitioner submitted a representation dated

23.12.2020 to the Commissioner/ Principal Secretary PHE Department, Government of Manipur, contending inter-alia that the private respondents

No.3 and 4 are not only junior to the petitioner but they are not even holding the post of E.E in regular basis. Without at all considering the case of the

petitioner, who is the senior most Assistant Engineer in the Department, the Authorities are allowing the private respondents No. 3 and 4 to hold the

charge of S.E.

On the last occasion, this Court directed the learned Government Advocate appearing for the State respondent to get instruction as to whether the

earlier order of this Court passed in W.P. (C) No. 566 of 2020 have been complied with or not. However, when the case is taken up today the

Government Advocate submitted that he is yet to get any instruction.

[8]. After hearing the learned counsel appearing for the parties and after perusal of the record, this Court is found the petitioner to be the senior most

A.E in the Department and the private respondents are junior to him in the grade of A.E.

However, without at all considering the case of the petitioner, the authority have allowed the private respondents No.3 and 4 to hold the highest post of S.E in charge.

[9] In view of the above, this Court is of the tentative view that action taken by the authority in allowing the private respondents to hold the charge of

S.E without considering the case of the petitioner, who is the senior most Assistant Engineer in the Department, it is the violation of the O.M dated

03.10.2020 and Art. 14 and 16 of the constitution. Accordingly, as an interim measure, it is ordered that impugned order dated 04.01.2020 and

25.08.2020 in so far as the private respondents No.3 and 4 are concerned shall remain stayed till the next date.

List this case again on 05.04.2021.

A copy of this order be furnished to both the counsel appearing for the parties through their respective e-mail/whatsapp.