

(2024) 07 MAN CK 0056

In the Manipur High Court

Case No : Writ Petition (C) No. 681 Of 2020

Kshetrimayum Tejkeshware Singh

APPELLANT

Vs

Manipur University Represented By The Registrar, Manipur
University, Canchipur, P.O. Canchipur & P.S. Singjamei,
Imphal West District, Manipur – 795003. & Ors.

RESPONDENT

Date of Decision : 18-07-2024

Acts Referred:

Citation : (2024) 07 MAN CK 0056

Hon'ble Judges : Ahanthem Bimol Singh, J

Bench : Single Bench

Advocate : N. Ibotombi, A. Rommel, B.P. Sahu, R.K. Tanya, S. Kaminikumar, S. Jasobanta

Final Decision : Allowed

Judgement

Ahanthembimol Singh, J

[1] Heard Mr. N. Ibotombi learned senior counsel assisted by Mr A. Rommel learned counsel appearing for the petitioner; Mr. B.P. Sahu, learned senior counsel assisted by Ms R.K. Tanya, learned counsel appearing for the respondents No. 1 and 2, Mr. S. Kaminikumar, learned CGSC appearing for the respondent No. 3 and Mr. S. Jasobanta, learned counsel appearing for the respondents No. 4 and 5.

The only issue that needs to be decided in the present writ petition is whether declaring the petitioner as an ineligible candidate for appointment to the post of Director, EMMRC, Manipur University, on the ground that he has not completed ten years of regular service is sustainable or not?

[2] The relevant facts required for deciding the above issue are that before his appointment as a Production Assistant of the Audio Visual Research Centre (AVRC) in Manipur University, the petitioner was serving as Upper Division Assistant (UDA) on regular basis w.e.f. 24-02-1993 to 24-08-1998 in the Gauhati

High Court, Imphal Bench. While serving as UDA in the Gauhati High Court, Imphal Bench, the petitioner was appointed as Production Assistant of the Audio Visual Research Centre in the Manipur University for the term w.e.f. 24-08-1998 till 31-03-1999 vide office order dated 31-08-1998 issued by the Registrar, Manipur University. It is the case of the petitioner that the term of his appointment as Production Assistant was extended from time to time and that while he was holding the post of Production Assistant of the AVRC, the petitioner was appointed as a Producer of Educational Multimedia Research Centre in the Manipur University on regular basis by an order dated 22-11-2011 issued by the Director (EMMRC), Manipur University.

[3] While the petitioner was serving as a Producer of EMMRC, the Deputy Registrar (Admn.), Manipur University, issued an Advertisement No. 3/2019 dated 10-10-2019 inviting applications from Indian nationals for filling up the post of Controller of Examinations, Finance Officer and Director, EMMRC. Under the said Advertisement, The essential qualifications prescribed for the post of Director, EMMRC are as under:-

"A Master's Degree in any subject. Eminent teaches/ persons having experience of print/ electronic media of journalism/ theatre, art and culture with a total of 10 years of regular service including administrative experience.

The terms of Director shall be for a period of 05 years, extendable to another term(s) upto the age of 60 years.

Age limit: 55 years."

[4] The petitioner being an eligible and qualified candidate applied for the post of Director, EMMRC strictly in terms of the conditions stipulated in the aforesaid Advertisement. When no further action was taken up by the authorities in connection with the recruitment of Director, EMMRC after issuance of the said Advertisement even after a lapse of one year from the last date of submission of forms, the petitioner submitted a representation dated 06-11-2020 to the Registrar, Manipur University, requesting to declare the result of the Screening Committee. When the authorities failed to consider the said representation, the petitioner filed a writ petition being WP(C) No. 596 of 2020 before this court for redressing his grievances and the said writ petition was disposed of by an order dated 23-11-2020 by directing the respondents, more particularly, the Registrar, Manipur University, to consider the said representation submitted by the petitioners within a period of four weeks from the date of passing the said order and to issue a speaking order in respect thereof.

[5] Soon after receiving a copy of the said order dated 23-11-2020 passed by this court in WP(C) No. 596 of 2020, the Registrar, Manipur University issued an office Order No. 711 dated 25-11-2020 cancelling the recruitment process initiated pursuant to the Advertisement dated 10-10-2019 for appointment to the post of Controller of Examinations and Director, EMMRC and for issuing fresh Advertisement for recruitment to the said post of Controller of Examinations and

Director, EMMRC in due course. The reason given in the said order for cancelling the recruitment process is that the Screening Committee did not find any eligible candidate for appointment to the post of Controller of Examinations and Director, EMMRC. Having been aggrieved, the petitioner preferred the present writ petition assailing the said cancellation order and also praying, inter alia, for directing the authorities to hold the DPC for appointment to the said post of Director, EMMRC within a reasonable period.

[6] Mr. N. Ibotombi, learned senior counsel appearing for the petitioner submitted that the authorities have declared the petitioner as an ineligible candidate for appointment to the post of Director, EMMRC only on the ground that the petitioner has not completed ten years of regular service, which is an essential qualification prescribed for the said post. According to the learned senior counsel, such ground given by the authorities is incorrect. The learned senior counsel strenuously submitted that the petitioner is well qualified and eligible for appointment to the post of Director, EMMRC as the petitioner have rendered more than ten years of regular service. In this connection, the submission made by the learned senior counsel on behalf of the petitioner are as under:-

(a) Before his appointment as Production Assistant, AVRC in the Manipur University w.e.f. 24-08-1998, the petitioner rendered service as a regular UDA in the Gauhati High Court, Imphal Bench for a period of more than five years w.e.f. 24-02-1993 to 24-08-1998;

(b) While serving as a regular UDA in the Gauhati High Court, Imphal Bench, the petitioner was appointed as a Production Assistant, AVRC in Manipur University w.e.f. 24-08-1998 and he continued to serve in such capacity till 22-11-2011, for a period of more than thirteen years, on which date he was appointed as Producer, EMMRC in Manipur University on regular basis and the petitioner has rendered about eight years regular service as a Producer, EMMRC as on the date of issuance of the aforesaid Advertisement dated 10-10-2019;

(c) In para 19(B) of the Application Form submitted by the petitioner for appointment to the post of Director, EMMRC pursuant to the Advertisement dated 10-10-2019, the length of service rendered by the petitioner as mentioned hereinabove were clearly given;

(d) Under a letter dated 21-06-1996, the Under Secretary, UGC intimated to the Director, Audio Visual Research Centre (AVRC, now EMMRC) that the UGC has lifted the ban imposed on the recruitment of staff in the media centre on permanent basis with immediate effect and that the centre may now go ahead with the recruitment of staff in the media centre on permanent basis in accordance with the staffing pattern circulated by the Commission. In the said staffing pattern, the posts of Production Assistants are also included. Pursuant to the said letter, the Board of Management, EMMRC, Manipur University held its 11th meeting on 11-11-2011 in the office of the Vice-Chancellor, Manipur

University, and took a number of resolutions including the resolution to confirm the services of all the EMMRC employees who joined their services before 01-01-2004 w.e.f. their respective dates of joining in their present positions for award of pension benefit. The relevant resolution of the Board of Management, EMMRC under Agenda Item No. 10 are as under:-

"10. Whether the members of the Media Centre are entitled to pension.

The Board resolved to confirm the services of all the EMMRC employees who joined their services before 01-01-2004 w.e.f. their respective dates of joining in their present positions for award of pension benefit. The resolution is in conformity with the UGC letter No. F.6-1/93(MC) dated 21st June, 1996 and it supersedes Resolution No. 7(a) of the 5th BoM meeting held on 14th July, 2003 at 2 p.m. in the Committee Room with the Vice Chancellor in the Chair."

(e) In compliance with the UGCs direction under its letter dated 21-06-1996 and the resolution taken by the Board of Management of EMMRC, Manipur University in its 11th meeting under Agenda Item No. 10, the Director, EMMRC issued an office order dated 24-01-2012 confirming the service of many employees of the EMMRC, who are similarly situated with the petitioner, w.e.f. the date of their initial appointment. The service rendered by the petitioner as Production Assistant, AVRC/ EMMRC during the period from 24-08-1998 till 21-11-2011 was also confirmed by an order dated 30-11-2021 issued by Director (i/c), EMMRC, Manipur University;

(f) The concerned authorities of the EMMRC, Manipur University all along treated the service rendered by the petitioner as Production Assistant to be on regular basis and such factum can be verified from the office orders issued during the period from 21-08-1999 till 22-07-2011 (at Annexure-A/13 series) fixing the annual grade increment of the staff members of the AVRC, Manipur University including the present petitioner as well as from the office order dated 19-12-2011 issued by the Director, EMMRC fixing the pay scale of the petitioner on his appointment as Producer, EMMRC. It has been submitted that such annual increment and fixation of pay scale can be given only to regular employees; and

(g) From the above factums detailing the length of regular service rendered by the petitioner in different capacities, it is clearly evident that the petitioner have rendered more than ten years of regular service and he is quite eligible and qualified for appointment to the post of Director, EMMRC. Without at all taking into consideration the length of regular service rendered by the petitioner in different capacities mentioned above, the authorities have arbitrarily and whimsically treated and declared the petitioner as an ineligible candidate for appointment to the post of Director, EMMRC and issued the impugned order. Accordingly, the impugned order is not sustainable in the eyes of law as the same is founded on incorrect facts and accordingly, liable to be quash and set aside. Further, the petitioner is entitled to be considered as an eligible candidate and to have his case considered for appointment to the advertised post of

Director, EMMRC within a reasonable period.

[7] Mr. B.P. Sahu, learned senior counsel appearing for the respondents No. 1 and 2 submitted that one of the essential qualifications as notified in the Advertisement dated 10-10-2019 is that a candidate for the post of Director, EMMRC should have ten years of regular service. The petitioner was appointed as Producer, EMMRC on regular basis on 22-11-2011 and as on the last date of submission of the application forms, i.e., 11-11-2019, he has rendered about eight years of regular service counting from 22-11-2011 to 11-11-2019. Accordingly, the authorities treated the petitioner as an ineligible candidate since he has not completed ten years of regular service, which is an essential qualification. The learned senior counsel also submitted that the Screening Committee held a meeting on 06-01-2020 for sorting out the candidates eligible for recruitment to the post of Controller of Examinations and Director, EMMRC and during the process of screening, it was found that no candidate, including the present petitioner, was eligible for appointment to the post of Controller of Examinations and Director, EMMRC and the Committee unanimously resolved to request the University authority to cancel the process of recruitment initiated pursuant to the advertisement dated 10-10-2019 and to issue fresh Advertisement for filling up the said post. On the basis of the recommendation of the Screening Committee, the impugned order dated 25-11-2020 was issued by the Registrar, Manipur University, cancelling the recruitment process initiated pursuant to the aforesaid Advertisement and for issuing fresh Advertisement for recruitment to the post of Controller of Examinations and Director, EMMRC in due course. The learned senior counsel further submitted that the Manipur University did not commit any illegality in issuing the impugned order and as such, the present petition is liable to be dismissed as being devoid of merit.

[8] It has also been submitted on behalf of the respondents No. 1 and 2 that subsequent to the issuance of the impugned cancellation order dated 25-11-2020, the Manipur University had issued another Advertisement No. 1/2021 dated 18-11-2021 inviting applications from Indian nationals for filling up the various Group-A posts including the post of Director, EMMRC. It has also been submitted that by an order dated 16-12-2021 passed by this court in the present writ petition, direction was given to the effect that the petitioner shall be permitted to submit his application in terms of the subsequent Advertisement dated 18-11-2021 taking into account the fact that he was eligible at the time when the earlier Advertisement dated 10-10-2019 was issued and to consider the case of the petitioner by the Manipur University along with the eligible candidates on merit and that the result of the recruitment process shall be subject to the outcome of the present writ petition. In compliance with the order dated 16-12-2021 passed by this court in the present writ petition, the authorities of the Manipur University have included the petitioner in the list of eligible candidates, however no Viva-Voce/ Interview for filling up the advertised post has been held by the authorities.

[9] The disputed fact in the present case is that the authorities of the Manipur University considered the petitioner as an ineligible candidate for appointment to the post of Director, EMMRC only on the ground that he has not completed ten years of regular service, which is an essential qualification for the said post. On examination of the Application Form submitted by the petitioner (at Annexure – A/4 series), it is found that the petitioner had given his professional/ service experience at para 19(B) of the application form, which are as under:-

"19(A) Academic qualification:

(B) Professional/ Service Experience:

(Give particulars in descending order stating with the present post)

[10] On careful examination of the materials available on record, it is also found that the petitioner had rendered more than five years of regular service as Upper Division Assistant in the Gauhati High Court, Imphal Bench and such factum has not been denied by any of the respondents. Moreover, the petitioner was appointed as Production Assistant, AVRC in Manipur University w.e.f. 24-08-1998 and he continued to rendered service as Production Assistant till 22-11-2011, on which date he was appointed as Producer, EMMRC in Manipur University. Accordingly, the petitioner have also rendered service in the capacity of Production Assistant for more than thirteen years and such period of service rendered by the petitioner as Production Assistant had been also confirmed by the authorities of the Manipur University by issuing the order dated 30-11-2021 in compliance with the UGCs direction as well as the resolution adopted by the Board of Management of the EMMRC, Manipur University. As such factum has not been controverted or denied by any of the respondents, this court has no hesitation to come to the conclusion that the petitioner had rendered more than ten years of regular service, though in different capacities.

[11] As the essential qualification of ten years regular service as notified in the Advertisement dated 10-10-2019 is not qualified by any criteria/ specification/ service condition, the act of the authorities in counting only the regular service rendered by the petitioner as Producer, EMMRC and ignoring the regular service rendered by the petitioner in other different capacities while considering his eligibility and treating him as an ineligible candidate cannot be countenanced by this court. Accordingly, this court is of the considered view that the respondents No. 1 and 2 have acted arbitrarily and whimsically in issuing the impugned order dated 25-11-2020 and as such, the same is not sustainable in the eyes of law and liable to be quash and set aside.

[12] In the result, the writ petition is allowed with the following directions:-

(i) The impugned office Order No. 711 dated 25-11-2020 issued by the Registrar, Manipur University, is hereby quashed and set aside;

(ii) The respondents No. 1, 2 and 3 are directed to consider the case of the petitioner for appointment to the advertised post of Director, EMMRC along with other eligible candidates, if any, within a period of three months from the date of receipt of a certified copy of this order

With the aforesaid directions, the present writ petition is disposed of