
(1999) 11 GAU CK 0022
In the Gauhati High Court
Case No : Contempt Case (C) No. 10 of 1999

Lalrosangi

APPELLANT

Vs

P.K.Handique, Director of Sericulture

RESPONDENT

Date of Decision : 25-11-1999

Acts Referred:

Contempt of Courts Act, 1971 — Section 2(b), 2(b)

Citation : (1999) 3 GLJ 599

Hon'ble Judges : P.C.Phukan, J

Bench : Single Bench

Advocate : C.Lalramzauva, T.Vaiphei, Helen Dawngliani, A.R.Malhotra,
Advocates appearing for Parties

Judgement

1. I have heard Mr. C. Lalramzauva, learned counsel assisted by Mr. AR Malhotra for the petitioner as well as Mr. T. Vaiphei, learned Assistant Advocate General, Mizoram appearing for the respondent. I have also considered the records.

2. This Court vide an order dated 8.5.98 passed in CR No.17 of 1997 directed that the case of the petitioner Ms Lalrosangi, who has been serving in the Sericulture Department of Mizoram Govt for about 15 (fifteen years) as Muster Roll employee, shall be considered for regular appointment in a post of LDC (Lower Division, Clerk) in the said Department in the next available vacancy. It was clarified in the said order that the appointment to the said post should be as per relevant law except that age shall be no bar and due weightage shall be given for her past service.

3. In the contempt petition it is alleged that in utter disregard to the aforesaid order, respondent instead of considering the petitioner's case for regular appointment in the said post of LDC, initiated a proposal (vide Annexure n dated 18.5.98) for convening DPC for regularisation of Ms Laltanpuui in the post of LDC to which she was appointed on ad hoc basis. This post of LDC till filled up by regular appointment remains vacant. Ad hoc appointment to this post is only a stopgap arrangement and not regular filling up of the said vacancy. Since this

vacancy was there on 8.5.98 (date of this Court's order), and is still there even after 8.5.98, it is the next available vacancy referred to in this Court's order dated 8.5.98. Any attempt to fill up this vacancy by regular appointment without considering the case of the petitioner amount to an attempt to disobey this Court's order dated 8.5.98.

4. Now, disobedience of order of Court, in order to constitute contempt punishable under the Contempt of Court's Act, 1971 must be wilful. In his affidavit in opposition the respondent states that to his understanding "the post currently held by Ms Laltanpuui on ad hoc basis in respect of a vacancy prior to the Hon'ble Court's order is not within the meaning of next available vacancy.?" None implementation of Court's order occurring due to bona fide wrong interpretation of the order by the authority concerned does not amount to contempt. Since in the instant case it appears to me that the respondent was labouring under a bona fide impression that the vacancy of the post of LDC to which Ms Laltanpui was appointed on ad hoc basis was not the next available vacancy, and in view of the fact that subsequently the respondent actually took some steps to comply with this Court's order dated 8.5.98. I am of the opinion that there was no willful disobedience to the said order on the part of the respondent within the meaning of section 2 (b) of the Contempt of Court's Act, 1971 and hence the respondent need not be punished under the said Act

5. Subsequently after certain developments and correspondences with the Govt, the respondent, his affidavit in opposition reveals, by his letter dated 26.10.99 (Annexure B/VJI) sought approval of the Govt to convene DPC where the cases of both Pi Lalrosangi and Pi Laltanpuui will be considered and the DPC will choose one of these found fit Obviously the DPC cannot consider the cases of Pi Lalrosangi and Pi Laltanpuui only and cannot choose only one of them, but shall have to consider their cases alongwith all other eligible candidates and make recommendation as per relevant Rules, since this Court by order dated 8.5.98 clarified that the appointment to the post of LDC shall be as per relevant law.

In view of the above, the respondent is hereby directed to take immediate steps to convene a DPC for regular appointment to the post of LDC currently held by Ms Laltanpuui on ad hoc basis after notifying the same through the Employment Exchange with intimation to the petitioner Ms. Lalrosangi for inclusion of her name, and her case shall be considered along with all other eligible candidates following the relevant rules except that in her case age shall not be bar and due weightage shall be given for her past service as directed. With the above direction, this contempt matter is dropped.

This contempt petition stands disposed of.