
(1997) 11 GAU CK 0011
In the Gauhati High Court
Case No : Civil Rule No. 563 of 1997

R.P.Ningon

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 19-11-1997

Acts Referred:

Citation : (1998) 1 GLJ 37

Hon'ble Judges : H.K.Sema, J

Bench : Single Bench

Advocate : B.P.Sahu, L.Shyam kishore Singh, Advocates appearing for Parties

Judgement

1. The dispute involves in this writ petition is with regard to the recommendation of DPC held in its meeting on 17.4.97 for promotion to the post of Assistant Director in the Food & Civil Supplies (PCS) Department. In the aforesaid DPC, the respondent Nos.5 to 12 have been recommended and on the basis of the aforesaid recommendation, they have been promoted to the post of Assistant Director. There is no dispute that the post of Assistant Director is a selection post and Inspectors of Food & Civil Supplies and Area Officers are the feeder post according to the recruitment rules.

2. By now it is well settled principle of law that when the post is selection post, the recommendation of the Selection Committee must be based on meritcum seniority. The criteria for considering the eligible candidates on merit is the ACRs/dossiers.

3. In this writ petition the allegation has been made that the selection is not based on meritcum seniority. but purely on the basis of final seniority list of the Inspectors. If the selection is made purely on the basis of final seniority list, merit has no place, therefore, it is ceased to be a selection post. It is only because of the aforesaid allegation, this Court called for the ACRs/dossiers of the respondents 5 to 12 and the petitioner considered by the Selection Committee in its meeting held on 17.4.97. Pursuant to the direction Mr. L. Sliyamkishore Singh

learned Senior Govt. Advocate made available the ACRs in a sealed envelop and the same have been perused.

4. It is stated that the DPC considered the ACRs/dossiers of all the officers " from 198889 to 199596. However, in normal practice the ACRs/dossiers are always considered for a period of five years. For the purpose of disposal of this civil rule, therefore, the ACRs/dossiers of the respondents and the petitioner for the period from 1991 92 to 199596 have been examined. On examination of the ACRs/ dossiers of the respondents 5. 6, 7. 10, 11 and 12 are far more superior than the petitioner's ACR/dossier for the period from 199192 to 199596. Therefore, the grievance of the petitioner against the respondents 5. 6. 7. 10. 11 and 12 docs not survive.

5. However, with regard to respondents 8 and 9 they are similarly situated with the petitioner inasmuch as the respondents 8 and 9 are also ST candidates as the petitioner, and they belong to reserved category.

6. On perusal of the ACRs/dossiers of the petitioner for the period from 199192 to 19996. the petitioner secured as under :

199192 Very Good 199293 Very Good

199394 Outstanding 199495 Outstanding

199596 Outstanding.

7. The respondent No.8 secured gradings as : Very Good" for the period from 199192 to 199596. Respondent No.9 also secured gradings as "Very Good" for the period from 1991 92 to 199596.

8. Therefore, from the ACRs/dossiers as indicated above, it clearly appears that the petitioner is having edge over the respondents 8 and 9 and appears to be meritorious than the respondents 8 and 9. As already observed, the terms "selection post" would mean the selection must be based on meritcumseniority. If that is so. the selection of the respondents 8 and 9 cannot be held to be on the basis of meritcumseniority. There is no dispute that in the final seniority list of Inspectors, name of the respondents 8 and 9 are at Sl.Nos. 4 and 5 respectively, and the name of the petitioner appears at Sl. No 13 of the list, but then when the question of selection comes, at the risk of repetition, it has to be made on the basis of meritcumseniority. Therefore, the seniority alone cannot be considered in isolation. It has to be considered along with the ACRs/dossiers of the respective officers. If the meritorious candidates are not selected in preference to nonmeritorious candidates, it has chain reactions resulting in frustation and desperation and ultimately affects the efficiency of the Govt. servant and public interest will be the great looser. Keeping this view in mind, the selection should always be made on the basis of meritcumseniority so as to give incentive to the meritorious candidates and boost up their moral by giving them the result of their hard work and dedication.

9. In view of the reasons aforestated the recommendation and appointments of the respondents 8 and 9 is hereby quashed. The respondents 1 to 4 are directed to reassess the ACRs/dossiers of the petitioner qua the respondents 8 and 9 afresh. For this purpose, the respondents are directed to examine the ACRs/dossiers of the petitioner and the respondents for the period from 199192 to 199596. It is made clear that a fresh DPC shall be held only to reconsider the case of the petitioner and the respondents 8 and 9 for the post meant for reserved category. No case of other candidates whether general or reserved categories shall be considered. The fresh DPC shall be held strictly in terms of the observations made above within a period of two months from the date of receipt of this order.

10. Before parting with the records, I am also constrained to observe that despite of receipt of notice, the respondents 8 and 9 choose not to appear before this Court.

11. Despite of quashing of the recommendation and appointment order, it is also made clear that till the DPC is held as directed above within the stipulated time, the respondents 8 and 9 may hold the office which they are holding at present. This order is passed to avoid dislocation of administrative exigencies.

The ACRs produced by Mr. Shyamkishore learned Senior Govt. "Advocate are returned hereby.

12. With the aforesaid directions and observations, this petition is allowed. No costs.