
(2016) 05 MEG CK 0012
In the Meghalaya High Court
Case No : Writ Petition (C). No. 408 of 2014

Shri Darwin Rynshon

APPELLANT

Vs

State of Meghalaya

RESPONDENT

Date of Decision : 23-05-2016

Acts Referred:

Citation : (2016) 4 NEJ 299

Hon'ble Judges : Mr. S.R. Sen, J.

Bench : Single Bench

Advocate : Ms. Y. Shylla, Advocate, for the Petitioner; Mr. R. Gurung, G.A, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. S.R. Sen, J. - Heard Ms. Y.Shylla, learned counsel for the petitioner and also Mr. R.Gurung, learned GA for the State respondents.

The instant writ petition is directed against the order dated 12.11.2014, 26.11.2014 and 28.11.2014. The petitioner's case in a nutshell is that "in the year 1990 on the recommendation of the Respondent No.8 the Petitioner was appointed as Chowkidar in the office of the Forest Utilization Division, Shillong and subsequently in the year 1996 the Petitioner was allowed to officiate on temporary basis as Forest Guard in the office of the Respondent No.7. After serving 15 (fifteen) years continuous service and having fulfilled the criteria as laid down in the Rules the Petitioner was allowed to draw an extended scale of pay by the Respondent No.2 in the year 2007. Subsequently in the year 2008 the petitioner was allowed to officiate as a Forest Guard in place of one Shri. C. Shylla who has been promoted as Fr.II and posted under the Jowai Range. In the year 2012 the Respondent No.7 sent the petitioner to undergo for the 18th Batch Training Course of Forest Guard to the Forest Guard School, Darugiri and in the said Training Course the petitioner has successfully completed the training in the year 2014 and a certificate to that effect was issued to the petitioner by the Chief Conservator of Forest Research and Training, Meghalaya, Shillong. In pursuance

to the Government Memorandum the Respondent No.7 has countersigned and approved the revised pay scale of the petitioner for an Annual Increment of all the staff belonging to the Jaintia Hills Division, Jowai including the petitioner and thereafter the Respondent No.7 forwarded the statement and relevant documents (Service Book) of the petitioner to the Respondent No.2 for regularisation of the service of the petitioner as Forest Guard.

However to the utter shock and surprise of the petitioner in the month of November, 2014 the Respondent No.3 convey his decision to the respondent No. 2 stating therein that since the appointment of the petitioner to the post of Chowkidar was done on the recommendation of the Respondent No.8, the service of the petitioner could not be considered for regularisation in the post of Forest Guard by the Respondent authorities and not only that the Respondent No.7 by the impugned order dated 26-11-2014 and 28-11-2014 discontinued the post of Forest Guard which was held by the petitioner and thereafter reverting back to the service of the petitioner to his original post of Chowkidar and posted him at Amlarem Range, West Jaintia Hills District under Social Forestry Division, Jowai.

Hence being aggrieved by the said illegal act of the Respondent No.2 in issuing the order dated 12.11.2014 and also the order dated 26.11.2014 and dated 28.11.2014 issued by the Respondent No.7, the Petitioner has no other alternative remedy but to file this instant Writ Petition seeking direction from this Hon"ble High Court to redress his grievances".

2. Ms. Y. Shylla, learned counsel appeared on behalf of the petitioner had submitted that initially the petitioner was appointed as a Chowkidar in the Office of the Forest Department, Government of Meghalaya on recommendation made by the District Selection Committee, East Khasi Hills District, Shillong in the year 1990. From the year 1996 he was allowed to officiate in the Office of the respondent No.7 as Forest Guard and in the year 2012, petitioner underwent the training course of Forest Guard at the Forest Guard School, Darugiri and completed the training in the year 2014. Thereafter, the respondent No.7 forwarded the service book of the petitioner to the respondent No.2 for regularisation of his service as Forest Guard which had been turned down and he had been reverted back to the post of Chowkidar as found mentioned in annexure XIII and XIV i.e. order dated 26th November 2014 and dated 28th November 2014. Hence, this instant petition before this Court.

3. On the other hand, Mr. R. Gurung, learned GA appeared on behalf of the State respondents had submitted that it is a fact that the petitioner served as an officiating Forest Guard for a long period and also underwent the training in the Forest Guard School, Darugiri but he could not be regularised as the Rule does not permit the promotion from a Chowkidar to a Forest Guard.

4. After hearing the submission advanced by the learned counsels for the parties, I have gone through the petition and annexures available on record which are as follows:

(i) Annexure-II i.e. letter O.O. No. 308(a) dated 2nd September, 1996 speaks about the posting of the petitioner as an officiating Forest Guard.

(ii) Annexure-III i.e. letter O.O. No.15 dated 11th May 2007 speaks about drawing of extended scale of pay for his 15(fifteen) years of continuous service.

(iii) Annexure-IV i.e. letter O.O. No.27 dated 10th July 2008 speaks about the petitioner's posting as officiating Forest Guard.

(iv) Annexure-V i.e. letter No. JH/SF/TRG/FGD/2011- 12/212(a)/B, Dated Jowai, the 7th May 2012 speaks about sending the petitioner for training at the Forest Guard School, Darugiri.

(v) Annexure-VI i.e. letter No. DTS/36(F)/Pay Statement/67, Dated Darugiri the 3rd May 2013 speaks about the pay statement of the Forest Trainees.

(vi) Annexure-VII is a Certificate issued in favour of the petitioner showing that he has successfully passed one year Forest Guard training.

(vii) Annexure-XI i.e. letter No.MFE.17/25/10516, Dated Shillong the 12th November 2014 speaks about the Addl. Principal Chief Conservator of Forests (Admn) stating in his letter that there are no provisions for promotion from the post of Chowkidar to the post of Forest Guard and hence he has been reverted back to the post of Chowkidar.

5. After hearing the submissions advanced by the learned counsels for the parties and after going through the annexures annexed with the writ petition as discussed above, the crux issue which came out before me is that whether the petitioner is entitled to be posted as Forest Guard. To answer this issued, I have examined The Meghalaya Forest Subordinate Service Rules of 2007 available in the file and Schedule II of the said Rule in Sl.No.4 speaks about who can be a Forest Guard by promotion. The said rule or provision made therein is reproduced herein below:

Schedule ? II

Rule ? 7(1), 7(2), 7(3), 7(4), and 7(5), 13

Sl No

Method of Recruitment

Educational qualification s, Physical fitness etc.

Persons eligible for consideration for promotion

Experience and Qualification etc. required for promotion

Remarks

4

Forester Grade ? II

By promotion only Refer: Rule 7(4)

Forest Guard

Must have passed Class-VIII and certificate from the recognised Forest Guard Training School and must have rendered not less than 5(five) years of continuous service as Forest Guard on the first day of the year in which the selection is made.

6. On careful reading, I find that to become a Forest Guard, one must pass Class-VIII, must possess a Certificate from a recognised Forest Training School and must render not less than 5(five) years continuous service as Forest Guard on the day of the year in which the selection is made. In this instant case, it is a clear and admitted fact that the petitioner is Class-VIII pass and he had undergone Forest Training and has successfully come out of the said training and also before training, he had served for several years as Forest Guard.

7. Therefore, I do not see any reason why the petitioner cannot be considered for the post of Forest Guard and I also do not agree with the submission that the Rule does not permit. In my considered view as far as the provision laid in Schedule-II, Sl.No. 4 as discussed above in the case of the petitioner, he is entitled for the said post. Thus, the respondents authority are hereby directed to consider his case immediately on receipt of the certified copy of this judgment and order and accommodate him as Forest Guard within a month.

8. Orders dated 12.11.2014, 26.11.2014 and 28.11.2014 are hereby set aside. With this observation and direction, the instant writ petition is allowed and stands disposed of.