
(2016) 05 MAN CK 0010
In the Manipur High Court
Case No : W.P. (C) No. 969 of 2015

Shri Sapam Arunkumar Singh	Vs	APPELLANT
State of Manipur		RESPONDENT

Date of Decision : 26-05-2016

Acts Referred:

Citation : (2017) 1 GauLT 227

Hon'ble Judges : Mr. Kh. Nobin Singh, J.

Bench : Single Bench

Advocate : Shri Kh. Tarunkumar, Advocate, for the Petitioners; Shri Y. Ashang, Govt. Advocate and Shri Y. Nirmolchand, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Mr. Kh. Nobin Singh, J.— Heard Shri Kh. Tarankumar, learned counsel appearing for the petitioners; Shri A. Ashang, learned Government Advocate for the respondent Nos. 1 & 2 and Shri Y. Nirmolchand, learned counsel appearing for the private respondents.

2. The subject matter in issue relates to the validity and correctness of the Final Seniority List for the post of Deputy Rangers published vide Notifications dated 20.05.2014 and dated 28.06.2014 issued by the Principal Chief Conservator of Forests, Government of Manipur.

3.1. According to the petitioners, they are presently serving as the Deputy Rangers in the Department of Forest, Government of Manipur, which was earlier known as the Forester Grade-I. The post of Forester Grade-I came to be re-designated as the Deputy Ranger on 31-03-1999 vide an order issued by the Commissioner (Finance), Government of Manipur.

3.2. The recruitment and the conditions of service for the post of Forester Grade-I were regulated by the Recruitment Rules known as the Forest Department Manipur (Forester Grade-I) Recruitment Rules, 1990 whereby the post was to be filled up - 75% by promotion and 25% by direct recruitment and maximum age

limit for direct recruits was fixed at 30 years. The said Recruitment Rules, 1990 came to be superseded by the rules called the Department of Forests, Manipur Deputy Ranger Recruitment Rules, 2007 wherein the upper age limit for the direct recruits continued to remain the same.

3.3. Sometime in the last part of September, 2015, the petitioners came to know the existence of the Notification dated 20-05-2014 by which the Final Seniority List for the post of Deputy Ranger was published and the names of the petitioners appeared at Serial Nos. 46, 45, 52 & 54 while that of the private respondents at Serial Nos. 15 to 28 respectively. This Notification was found to have been updated by the Notification dated 28-06-2014 wherein the names of the petitioners appeared at Serial Nos. 38, 37, 44 & 46 while that of the private respondents at Serial Nos. 7 to 20 respectively. Pursuant to and on the basis of the said Final Seniority List published vide Notification dated 28-06-2014, the Principal Chief Conservator of Forests, Government of Manipur did commence taking steps towards holding a DPC for promotion to the post of Range Forest Officer for which letters dated 30-04-2015 and 03-06-2015 were addressed to the Director (Vigilance) and other concerned officers as regards the Integrity Certificate and the ACRs.

4. Being aggrieved by the said Seniority List published vide Notifications dated 20-05-2014 and 28-06-2014, the petitioners filed the instant writ petition questioning and challenging it on the inter-alia grounds that the Final Seniority List appears to have been prepared on the basis of the alleged tentative seniority list published vide Notifications dated 12-05-2014 and 17-05-2014 which were never circulated to them nor had they been made known to them thereby depriving them of their rights to raise objections thereto; that the Final Seniority List was also not circulated to them nor had they been made known to them; that the private respondents were appointed contrary to the provisions of the relevant Recruitment Rules for the reason that by the time when they were appointed, they became age-barred and that the official respondents being part of the State, they ought to have acted as a model employer. During the course of hearing, the learned counsel appearing for the petitioners has added one more ground contending that although the ad-hoc services of the private respondents were regularised vide order dated 25-04-1998 with immediate effect, their date of appointment was shown in the Final Seniority List as 15-05-1997. Contesting the instant writ petition, an affidavit-in-opposition on behalf of the respondent Nos. 1 & 2 was filed wherein it is stated that the tentative seniority list was first published on 12-05-2014 but because of technical defects, it was again notified on 17-05-2014 which were circulated to all the authorities concerned including all the serving Deputy Rangers and were also affixed in the Notice Board of the Department; that the Final Seniority List which was published on 20-05-2014, came to be updated on 28-06-2014 due to requirement of deleting the names of 8 incumbents who were either promoted or had retired from service and that the private respondents were appointed taking into account the Notification dated 14-05-1990 issued by the DP by which the age limit prescribed in the

recruitment rules was relaxed upto 35 years. The private respondents also contested the instant writ petition by filing an affidavit-in-opposition taking a similar stand as that of the respondent Nos. 1 & 2.

5. One of the prayers in the writ petition is that the orders by which the private respondents were appointed, be quashed and set aside, as the same are not sustainable in the eye of law. But during the course of hearing, the learned counsel appearing for the petitioners has given up this prayer and has confined his argument only in respect of the remaining prayers. Therefore, broadly, two points have arisen in the matter for consideration by this court. The first point is of technical one and not on merit. It has been submitted by the learned counsel appearing for the petitioners that the tentative seniority list published on 12-05-2014 as well as on 17-05-2014 was not circulated to them nor was it made known to them, as a result of which they were deprived of their rights to raise objections thereto. On the other hand, the learned Government Advocate has submitted that the said tentative seniority list was circulated to all concerned including the serving Deputy Rangers and was also affixed in the Notice Board of the Department. The contention of the learned Government has no force and substance and therefore, cannot be countenanced by this court. In support of their averments made in the affidavit-in-opposition filed on behalf of the respondent Nos. 1 & 2, no documents have been produced by them. It is not disclosed as to how and when the said Notifications dated 12-05-2014 and 17-05-2014 were circulated to the petitioners. Moreover, the State Government has not brought to the notice of this court any rule prescribing the procedure to be followed in matters of circulation of tentative seniority list and in the absence of any such rule relating to circulation of the Notification, the principles of natural justice will have to be followed by the State Government. Were they circulated by post or through the hands of the staff of the office of the Principal Chief Conservator of Forest, Government of Manipur? The answer thereof is not discernible from the said affidavit-in-opposition. Mere saying that the tentative seniority list has been circulated to all concerned is not enough and it ought to be ensured and proved by the State Government that the tentative seniority list has been circulated to all the concerned employees, otherwise the purpose of granting opportunity of raising objection will be rendered meaningless and will also be defeated. Assuming for the sake of argument that either of the means of communication has been adopted by the State Government for circulation of the said Notifications, it has failed to produce copies of the postal receipts or to disclose the name of the staff through whom the said Notifications have been circulated to the petitioners. Over and above, the time given in the said Notifications is too short in view of the fact that many of the Deputy Rangers are posted in the hill districts of Manipur. In this regard, it may be noted that the learned counsel appearing for the petitioners has submitted that two of the petitioners, at that point of time, were posted in Tamenglong District and one of them was posted at Kasom Khullen, Ukhrul District. Seven days time granted for raising objection to the tentative seniority list may be all right or good enough for

a Deputy Ranger posted at Headquarter or in any of the districts in the valley area but it will not be so in respect of the hill districts. Moreover, the affixing of a copy of the Notification in the Notice Board at the head office itself is also not enough. The purpose of circulating tentative seniority list is to give an opportunity to the employee, aggrieved by such tentative seniority list, of raising an objection thereto and in other words, the employee shall be given an opportunity to go through the tentative seniority list so that he or she will know whether the same has been correctly prepared or not, on the failure of which the employee will lose such an opportunity. Informing over the phone or conveying the message thereof through somebody will not serve the purpose. Keeping in mind these circumstances, the State Government ought to have given sufficient time so as to enable them to do the needful. Having not done so in the facts and circumstances of the case, the action of the State Government is highly unfair, unreasonable and arbitrary being violative of Article 14 of the Constitution.

6. The other point is as regards determining seniority for which the date of entry by the private respondents into the cadre of the Deputy Rangers is very crucial and important. One of the factors of regular service is what is called the seniority. Seniority in simple English means a longer period of service than of a person taken for comparison. In other words, seniority means the period of employment of an employee in the cadre. The learned counsel appearing for the petitioners has submitted that although the ad-hoc services of the private respondents as the Deputy Rangers were regularised vide order dated 25-04-1998 issued by the Principal Chief Conservator of Forest, Government of Manipur, their date of appointment was shown in the seniority list as 15-05-1997. It may be noted that for purpose of determining seniority, the date of entry lawfully into the cadre is very much important and in other words, it is the basis for determination of seniority of an employee. An employee cannot be given the benefit of a date earlier than his date of appointment on regular basis. The date of entry into the cadre can be ascertained from the date of appointment on regular basis. The contention of the learned counsel appearing for the petitioners appears to have some force for the reason that it is evident from the order dated 25-04-1998, a copy of which is on record, that the ad-hoc services of the private respondents and in particular, the private respondent Nos. 9 to 16, were regularised with immediate effect. If that be so, the date of entry into cadre by the private respondents may have to be from the date on which they were regularised and not earlier than that. However, during the course of hearing, the learned Government Advocate has produced copies of two orders dated 31-03-1998 to contend that because of these orders, the date of appointment of the private respondents was shown as 15-05-1997. On perusal of the said two orders, it is evident that so far as the order dated 31-03-1998 in respect of Shri L. Ibohal Meitei and three others is concerned, it does not improve their case much at all. The said order states that they have been regularised with effect from 01-04-1998 until further order and therefore, the date of their entry into the cadre cannot be earlier than 01-04-1998. The other order dated 31-03-1998

in respect of Shri Kh. Loteswor Singh and three others is concerned, it is not clear as to the intent of the State Government and it is ambiguous. The intent which the State Government wishes to convey through it, appears to be that in the event of an order being issued by the State Government for appointment on promotion as Rangers, their ad-hoc services shall be treated as on regular basis from the said date. It is hypothetical and it is not again clear as to whether they have been appointed by promotion as Rangers or not, as there is no material on record in respect thereof. Be that as it may, the validity and correctness of these orders dated 31-03-1998 or dated 25-04-1998 relied upon by either of the parties are not the subject in issue in the present case and therefore, this court proposes not to express any opinion with regard to the cumulative effect of these orders and not to advert to the rival contentions thereof.

7. For the reasons stated herein above at para 5, the instant writ petition is allowed and consequently, the Final Seniority Lists dated 20-05-2014 and 28-06-2014 are quashed and set aside with the following directions:

- a) The respondent Nos. 1 and 2 and in particular, the respondent No. 2 shall serve copies of the tentative seniority list upon all the Deputy Rangers including the petitioners inviting their objections, if any;
- b) The respondent No. 2 shall, thereafter, grant reasonable and sufficient time to them so as to enable them to submit their objections thereto keeping in mind the circumstances prevailing in the State;
- c) The respondent No. 2 shall, after having considered the objections, if any, submitted by them, finalise the seniority list in accordance with law. There shall be no order as to costs.