



IN THE HIGH COURT OF SIKKIM

ORDER SHEET

...Writ Petition (C).....No. 13 of 2007

.....SMT. DHAKA DEVI SHARMA..... Petitioner / Appellant

Versus

.....THE CHIEF EXECUTIVE OFFICER,.... Respondent
SIKKIM KHADI & VILLAGE INDUSTRIES BOARD,
DEORALI, GANGTOK & ANOTHER.

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
01.	23.5.07	<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Ms. Manita Pradhan, Advocate for the Petitioner.</p> <p>Mr. B. Sharma, Sr. Advocate with Mr. J.K. Kharga, Advocate for the Respondent No. 1.</p> <p>Mr. R.P. Sharma, Executive Officer, Sikkim Khadi & Village Industries Board, Deorali, Respondent No. 2 in person.</p> <p>...</p> <p>The Writ Petition is admitted. The Writ Petitioner submits that she was placed as Statistical Investigator from her earlier posting as U.D.C. and then on 17.5.2006 her pay was raised by a published order of the Respondents from Rs.4000/- basic minimum to Rs.4300/- basic minimum.</p> <p>Then on 15.03.2007, all these benefits were withdrawn from her without giving her a hearing. An earlier Writ Petition filed by the Writ Petitioner became infructuous</p>	

because of the rescinding order dated

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		<p data-bbox="399 384 1165 1164">15.03.2007 which has been challenged herein. The point of natural justice is raised. Giving a promotion or a raise depends on various factors including preliminary assessment of suitability but demotion or reduction in pay ordinarily has to be accompanied by and is usually preceded by a reasonable and fair hearing. There appears to be prima facie merit in the Writ Petition.</p> <p data-bbox="399 1242 1165 1943">Although the Respondents submit that the pay raise on 17.5.2006 was given without the approval of the Chairman, and that the Board decided to rescind the order, so as to avoid "breach of prescribed norms", and did so on the basis of two Meetings of the Board held on 14.09.2006 and 02.03.2007, prima facie, a prior hearing was, in these circumstances, eminently called for.</p> <p data-bbox="399 2017 1165 2309">Affidavit in opposition within 3 weeks, reply 3 weeks thereafter. Place in the list for hearing on 17.07.2007. Unless there is good cause to the contrary, the Respondents</p>	

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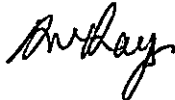
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		<p data-bbox="397 377 1177 755">should seriously consider making the earlier benefits once again available to the Writ Petitioner immediately, though on a purely ad-hoc and temporary basis, subject to the final decision of the Court.</p> <div data-bbox="917 742 1177 1010"><p><i>A.N. Ray</i> (A.N. Ray, CJ)</p><p><i>N.S. Singh</i> (N.S. Singh, J)</p></div>	



W.P 13/07

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02.	14.8.07	<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Ms. Rashmi Rekha Devi, Advocate for the petitioner.</p> <p>Ms. Sunita Pradhan, Advocate for the Respondents.</p> <p>...</p> <p>It is a Division Bench matter. Adjourned to 05.10.2007 by consent of the learned counsel appearing.</p> <p><i>A. N. Ray</i></p> <p>(A. N. Ray, CJ)</p>	



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3. 5.10.07		<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Mr. Sudesh Joshi and Ms. R.R. Devi, Advocates for the Petitioner.</p> <p>Mr. S.P. Wangdi, Advocate General with Mr. J.B. Pradhan and Mr. Karma Thinlay, Government Advocates for the Respondents.</p> <p>...</p> <p>Let it appear on 18.12.2007 before an appropriate Division Bench, if possible.</p> <p> (A.N. Ray, CJ)</p>	



S. No. of Order	Order with Signature	Office Note as to action (if any) taken on Order
4. 18-12-2007	<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Mr. S. Joshi, Advocate for the petitioner.</p> <p>Mr. S.P. Wangdi, Sr. Advocate with Mr. Karma Thinlay, Advocate for the respondents.</p> <p>It is submitted by Mr. S.P. Wangdi, learned Srnior Advocate at the Bar that the case of the petitioner for promotion is being taken up by the respondents and it will take some time before the matter is finalised.</p> <p>By consent of the parties, let the matter come up after winter vacation i.e. on 7-3-2008.</p> <p style="text-align: right;"><i>A.N. Ray</i> (A.N. Ray, CJ)</p> <p style="text-align: right;"><i>A.P. Subba</i> (A.P. Subba, J)</p>	



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05.	07.3.08	<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Mr. Ashim Chhetri, Ms. Rashmita Rai and Ms. Pollin Rai, Advocates for the Petitioner.</p> <p>Mr. J.B. Pradhan, Advocate for the Respondents.</p> <p>...</p> <p>On behalf of the writ petitioner, it is submitted that a promotion order has already been passed in favour of the writ petitioner. A copy of the Office Order handed over by the learned senior counsel Mr. A.K. Upadhyaya be kept on record, countersigned by our Principal Court Officer. According to the writ petitioner there is no need to proceed any further; thus the writ petition is disposed of finally without any further or other orders. Learned counsel for the respondents takes no exception to this.</p> <p><i>A.N. Ray</i> (A.N. Ray, CJ)</p> <p><i>A.P. Subba</i> (A.P. Subba, J)</p>	