

# **IN THE HIGH COURT OF MEGHALAYA**

## **WP(C) No. 99 of 2011**

Shri. Subroto Das  
C/o Compounder's Quarter  
Block No. XI,  
Jhalupara, Shillong, 793002,  
Meghalaya.

..... **Petitioner**

**- versus -**

1. Shillong Cantonment Board,  
Shillong.
2. The Chief Executive Officer,  
Shillong Cantonment Board,  
Shillong.
3. The SEMO  
Military Hospital,  
Shillong.
4. Shri. Jitendra Kumar,  
S/o Late Shyam Sharma,  
R/o West Mohan Bigha  
Adarsh Nagar, Dehri  
Thana: Dalmia Nagar,  
District: Rohtas, Bihar.

..... **Respondents**

### **BEFORE THE HON'BLE MR JUSTICE SR SEN**

Advocate for the Petitioner	:	Mr. MF Qureshi
	:	Ms. K Chisa
Advocate for the Respondents	:	Mr. SP Mahanta
		Mr. IC Jha
Date of Hearing	:	19.09.13
Date of Judgment and Order	:	30.09.13

### **JUDGMENT AND ORDER**

The petitioner's case in nut shell is that, applications were invited for the post of Sanitary Inspector in Shillong Cantonment Board through Employment Notice issued by the respondent vide letter No. SHG/3/ESTT/VOL.II/2010/175, dated 3.08.10.

2. The petitioner applied for the said post and appeared in the Written Examination as well as Interview and secured 89% out of 150% and

was placed at Sl. No. 1 in the merit list. Thereafter, vide resolution No. 7 dated 19.01.11, the Shillong Cantonment Board took a decision to appoint the petitioner as Sanitary Inspector and also resolved that the appointment letter to be issued to the petitioner. But to his utter surprise and disregarding the earlier resolution, the Shillong Cantonment Board for reasons best known to them re-advertised the post where the petitioner did not participate; as a result, they have selected another candidate who is the respondent No. 4. Being aggrieved by the act of the respondent, the petitioner approached this Court by way of this instant writ petition.

3. Mr. MF Qureshi, the learned counsel along with Ms. K Chisa, the learned counsel appeared for on behalf of the petitioner argued that, the petitioner in response to the advertisement for the post of Sanitary Inspector in the Shillong Cantonment Board applied and faced the Interview as well as the Written Examination where he secured the highest marks and the respondent authority has decided vide their resolution dated 19.01.11 to appoint the petitioner. Thereafter, for reasons best known to them, they have re-advertised the said post which was not in the knowledge of the petitioner, so he could not sit for the Examination, as a result, respondent No. 4 has been selected. Such an act on the part of the respondent is not only irresponsible but also illegal; therefore, necessary order may be passed for the ends of justice.

4. In reply, Mr. SP Mahanta, the learned counsel for the Shillong Cantonment Board submitted that, the Board found that there were some anomalies, so a decision was taken to conduct a 2<sup>nd</sup> Examination to select the most suitable candidates, hence, the 2<sup>nd</sup> Advertisement.

5. Mr. IC Jha, the learned counsel for respondent No. 4 submitted that, the respondent No. 4 has no fault of his own; as he applied for the post and has been selected, so he must get his appointment letter.

6. I have perused the Annexure-I i.e. the Advertisement as well as the Annexure-III wherein the name of the petitioner appeared at Sl. No. 1

and stood 1<sup>st</sup> in the merit list of the Examination conducted by the respondent authority at the 1<sup>st</sup> instant. On further perusal at Annexure-VI, the petitioner has again secured the highest marks, so it is understood that there were 2(two) Examinations conducted against the 1<sup>st</sup> Advertisement, in both the Examinations the petitioner secured the highest marks i.e. 89% out of 150% and 40% out of 100% respectively.

7. On further perusal of Annexure-VI at Page-17 annexed with the petition it is apparent that, the Board has resolved that *“Considered and approved the appointment of Sh. Subroto Das as Sanitary Inspector of the Board as he has secured the highest marks. Letter of appointment shall be issued accordingly”*. So, from Annexure-VI, it is clear that the petitioner has been selected on the basis of merit.

8. Therefore, after considering the submissions advanced by the learned counsel and on perusal of the Annexures referred to above, I could not understand under what circumstances compelled the respondent authority to go for the 2<sup>nd</sup> Advertisement without cancelling the 1<sup>st</sup> selection or without informing the petitioner, hence, in my considered view, the 2<sup>nd</sup> Examination was conducted not in accordance with law and in principles of natural of justice.

9. However, I do not find any fault on the part of the respondent No. 4 as he also applied for the said post and has been selected in the 2<sup>nd</sup> Examination. Therefore, in my considered view such a peculiar circumstances, to meet ends of justice, both the Examinations and Select List need to be set aside which I accordingly do with a direction to the respondent authority to conduct a fresh Examination and Interview as per rules within 2(two) months from the date of receipt of the certified copy by giving equal opportunities to the petitioner as well as the respondent No. 4 to sit for the examination, if necessary their ages to be condoned and to select the candidate in a very fair manner.

10. Before I part with the case record, I warn the respondent authority not to repeat such act in the near future.

11. With these observations and direction, the instant petition is allowed to that extent and the matter stands disposed of.

**JUDGE**

V. Lyndem